Copiese el Indice que está al fin.

Ms. fº pergamino, completo, foliado hasta el 426. sin contar el Indice, cerca de la mitad de las ojas de la cabeza manchadas y en parte ilegibles.

Rotulata = Relect. Jur. utriusq. t. 4

Al Examinicap Venerabilis
B. de Consarat
dict S.a

Ad textum in cap. Venerabiles 28. de cons. dist. 3.

Mos fuit antiquis ab omnibus pene observatus ut in maioribus periculis, in quibus vite vel honoris metuebant discrimen suis numinibus sacrificium offerrent. Qua superstitione freti, ut pote divino iam captato auspicio non dubitabant quamcumque rem etiam si difficilem confidenter subire, aut terram inviam penetrando, aut armis pectus obiciendo, aut denique maris tempestates, atque procellas ubique sustinendo. Nec fuit inter eos ulla gens tan barbara, que non opinaretur paccatis, et propitiis his, que pro Diis colebant, omnia feliciter cedere, iratis autem, et aversis etiam maxima queque, et potentissima interire, ideo sentiebant oportere in omni re illis holocausta vovere. Hec barbarice gentes. At ego ut huius litterarii certaminis faustum adimpleam munus non tantum celestis numinis favorem implore, imo et sacrarum imaginum venerationem in medium profero, de quibus extat contentio in septima Nicena synodo actione sexta. relata in cap. Venerabiles imagines 28 de consecratione dist. 3. Pro cuius felici, ac faustissimo eventu divinam in primis deprecor benevolentiam. Et vos quibus brevi per oratio stilo sanctam Nicenam septimam synodum de sacrarum imaginum veneratione agentem percipite.

> Venerabiles imagines Xpiani non Deos appellant, nec serviunt eis, ut Diis, nec spem salutis ponunt in eis, nec ab eis futurum expectant iudicium, sed ad memoriam, et recordationem primitivorum venerantur eas, et adorant, sed non serviunt eis cultu divino, nec alicui creature.

Hec Nicene synodi verba. quorum corticem demonstraturi ab ipsomet nomine imago exordiar, nec incongruenter sane, cum variis, ac diversis soleat usurpari acceptionibus. Aliquando igitur pro generatione per imitationem assumitur. Hinc filius imago patris nuncupatur xta illud.

> Saepe solet filius similis esse patri.

Quandoque pro quacumque similitudine accipitur. Virgilius 6o Aeneidos.

> O mihi sola mei super Astianactis imago

Aliquando etiam pro pagina scribitur, quod veluti imago sit ipsius rei, quam claudit Virgo eodem in loco testante.

> Curvam servans sub imagine falcem.

Apud rhetores imago pro quadam orationis figura usurpatur, tunc scilicet cum non solum res gesta indicatur, sed ut gesta sit ostenditur, unde et si his, et aliis quamplurimis locutionibus apud scriptores accepta inveniatur, verius tamen est docente Varrone lib. 1o de lingua latina ab imitatione desumi, itaque per allusionem ad illud dicitur echo imago vocis. Horatius lib. 1o Carminum.

> Jocosa nomen imago.

Ab imitatione deducta imago est, et dicitur vera rei similitudo, ut cum homo pingitur aut aliud simile ad discrimen idoli, quod falsa potius, quam vera similitudo est cum id representet, quod vere verum non est. quod ex gentilium more satis apparet, penes quos Veneris, ac Minerve statue erant, que idola, ac false imagines debent nuncupari. Inde vero non desunt, qui asserunt imagines, et idola reciproce accepi debere, verum tamen discrimen inter hec apparet, cum per imagines rei vere Trinitatis scilicet, aut angelorum similitudo constet. per idola vero deorum, qui nec sunt, nec esse possunt falsa appareat demonstratio. Qua doctrina inspecta septima Nicena synodus actione 5a et 7a eos anathemate damnat, qui imagines Xpi, et sanctorum vocant idola, quod quidem ex [illegible] maxime patet, nam sacra pagina nomen idoli nunquam ulli vere imagini tribuit, sed

solum

Sed Solum Simulacris Gentilium falsos Deos demonstrantibus. Filium Dei Scriptura vocat ima
ginem Patris Sapientiæ cap. 7.° Collosenses 1.° Hebreos 1.° Numquam vocat idolum Patris, sic
etiam patet ex Levitici cap. 19. et 27. ubi idola Scriptura vocat elilim, quod verbum signifi
cat vanum, et falsum, et numerorum cap. 23. nuncupat Abanim, quod mendatium demon
strat, ita docet Divus Hieronimus in cap. 7.° Osee. quod omne ex ipsamet vocis propietate Co
lligitur, nam et Tertullianus monet lib. de idolatria idolum est diminutivum, parvam
que significat formam non in quantitate sola imo et in perfectione; in quam Sententiam
videtur inclinare illud Virgilij 6.° Æneidos.

Corripit hic subita trepidus formidine ferrum
Æneas, strictamque aciem venientibus offert.
Et ni docta comes tenues sine corpore vitas
Admoneat volitare cava sub imagine formæ
Irruat; et frustra ferro diverberet umbras.

Ita etiam simulacra ab imaginibus distinguuntur, cum idem fere idola, ac simulacra
sint, ita nos docet Divus Hieronimus in dicto cap. 7.° Oseæ, dum ait simulacrum veræ
imagini, ac Deo ita opponi, sicut mendatium veritati, quoniam simulacrum falsos
Deos denotat. Nec qui aliquid in Poetis, vel etiam in Oratoribus perlegerit hoc nesciet,
sed unus locus nunc sufficiet ex Danielis 5.° bibebant, inquit, vinum, et laudabant
Deos suos aureos, argenteos, æreos, ligneos, et lapideos, ita Homerus, Lucianus, Lu
cretius, et Virgilius suis in operibus docuere. docte etiam docet Belarminus tomo
1.° lib. 2. de imaginibus cap. 5.°

Sed ut rem ab origine repetamus, sacrarum
que imaginum antiquissimam venerationem cognoscamus expedit scire ex ecclesias
ticis Historijs constare iam inde ab Apostolorum temporibus depictas fuisse imagines
in templis, in tabellis, in velis, vasis, cubilibus, et alijs publicis locis. extant tho
mæ antiqua cœmeteria in quibus erant innumeræ imaginum picturæ. Exemplorum ianua
sit ipse noster Salvator, qui imaginem suam linteo expressam Veronicæ tradidit, et
Pictori Agbari Regis primarium exemplum concessit, ut Nicephorus Calixtus lib. 2. His
toriæ Ecclesiasticæ cap. 7.° recenset. In cuius rei confirmationem maxime facit consuetudo
ecclæ, cum primis quingentis annis hoc observaret, cuius veritatis testimonium præbet Ter
tullianus in lib. de pudicitia ante medium, dum testatur in Sacris ecclesiæ catholicæ cali
cibus depictum fuisse Xpum in forma pastoris ovem errantem suis humeris ad ovile
reportantis. Cuius venerationis meminit Divus Augustinus lib. 1.° de consensu Evan
gelistarum cap. 10. idemque dicit de Historia Abrahæ filium mactare volentis
lib. 22. contra Faustum cap. 73. Ambrosius Mediolanensis in Sermone de inventione
Gervasij, et Prothasij, et Sermone 20, in Psalmo 118. Epiphanius Cypri epistola ad Joa
nnem Hierosolimitanum episcopum in ecclesia imagines depictas, utique, et adoratas
se vidisse testatur, quæ epistola inserta est tomo 2.° epistolarum S. Hieronimi Stridonen
sis. Paulinus epistola 12. ad Severum conqueritur, quod se una cum Sancto Martino
in templo depingi curaverat, et rogat ut saltem ista carmina adscribi iubeat.

Adstat Martinus perfectæ regula vitæ
Paulinus veniam quo mereare docet
Hunc peccatores, illum expectate beati
Exemplar Sanctis ille sit, iste reis.

et Natali 10 Sancti Felicis inquit. Sanctasque feramur in aulas, miremurque
sacras veterum monumenta figuras. idem etiam testatur Eubodius lib. 2. de mi
raculis Sancti Estephani. Prudentius etiam in Hymno de Sancto Cassiano scribit

Scribit se in templo eiusdem Sancti imaginem super altare vidisse.

Erexi ad cælum faciem, stetit obvia contra
Fucis colorum picta imago martyris
Plagas mille gerens totus lacerata per artus
Ruptam minutis præferens punctis cutem

idem de Sancto Hipolito ipse author refert.

Picta super tumulum species liquidis viget umbris
Effigians tracti membra cruenta viri.

Quarum imaginum venerationi consulens Imperator Constantinus, qui opera Beati Silves
tri baptizatus fuit anno 324 in lo loco agnum ex auro purissimo apposuit, ad cuius dex
teram statuam argenteam Salvatoris collocavit, ad lævam vero statuam argenteam
Joannis Baptistæ constituit. Hæc, et alia similia efficiens solum ad denotandam vene
rationem sacris imaginibus exhibendam, ut docet Damasus Papa in Vita Sylvestri.
Chatechismus etiam Pii quinti 3a pe. sectione 23. sequentibus in verbis huius meminit
venerationis. at vero cum Jesus Dominus, eiusque sanctissima, et purissima mater, cæteri
que omnes Sancti humana præditi natura humanam speciem gesserint, eorum imagi
nes pingi, atque honorari non modo hoc præcepto interdictum non fuit, sed etiam
sancti, et grati animi certissimum argumentum semper habitum est. quod et Apostolico
rum temporum monumenta, et œcumenicæ Synodi, et tot sanctissimorum doctissimo
rumque Patrum inter se consentientium scripta confirmant. Etiam huius rei memores
fuerunt Simeon Metaphrastes in Vita Divi Lucæ evangelistæ. Nicephorus lib. 2. Histo
riæ Ecclesiasticæ cap. 43. Concilium Constantinopolitanum generale sub Justiniano Impe
ratore collatione 7a idem probat, meminit etiam Vigilius Primus, ut ad calcem eiusdem
collationis 7æ legitur; Gregorius primus lib. 7o Registri epistola 53 ad Secundinum inche
sum idem asseverat, ita docent Belarminus tomo primo lib. 2. de imaginibus cap. 9.
Azor tomo 1o institutionum Moralium lib. 9. cap. 5. probant tales in cap. per latus 27. cap. sextæ
Sanctam Synodum 29. de consecratione distinct. 3. Denique etiam docet Gregorius deci
mus in Concilio Generali Lugdunensi relato in cap. Si canonici n.o §. ult. de off. ordinarij lib. 6.

Quamvis omnia usque dicta sacrarum imaginum ve
nerationem non satis, recteque persuaderent, nec quidquam operarentur ad idem tamen
maximopere eamdem miracula movent, animosque fidelium alliciunt. Nec exempla
dessunt, imo passim quamplurima occurrunt. Præbeat exordium illa celebris, ac miraculis
decantata Christi imago in Panica Phœniciæ civitate alio nomine Pandicta ærea facta a
muliere illa, quæ curata erat a Domino tactu vestimenti a fluxu sanguinis. et columnæ im
posita, sub qua crescebat herba medicis incognita, quæ ubi fimbrias vestimenti statuæ æreæ
attingebat, erat remedium validis, et omnibus ægritudinibus. Hæc cum fuisset deposi
ta a sua columna per Apostatam Julianum, et in locum eius suam statuam collocari
fecisset, miraculo Deus iniuriam sibi factam declaravit, nam statim illa Cæsaris statua
de cælo deiecta est, nec deinceps illa herba ibi, nec alibi ullo tempore apparuit. ita narrat
Nicephorus Calistus lib. 10. cap. 30. Sozomenus lib. 6. Historiæ tripartitæ cap. 41. et 42.
Eusebius lib. 7. cap. 18. Aliud ad rem nec minus mirandum exemplum in Sancti Anas
tasij Martirio vita proponitur; nam cum ipse martirio finisset vitam, et eius re
liquiæ civitati Cæsareæ Palestinæ religionis apropinquassent, statim ac res omnibus
fuit declarata ingenti lætitia perfusi sacra signa pulsantes (nec usus campa
narum adhuc erat) obviam facti sunt in veneranda Deiparæ Virginis æde, quæ appe
llatur Nona. Illinc cum cruce, et suplicatione egressi læti, et gaudentes cum gratia
rum actione sacris reliquijs occurrerunt, cum autem sacræ reliquiæ in urbem allatæ
fuissent, eas communi sententia martiri oratorium prope tetrapylum, Christi

immedio

in medio Civitatis Construere decreverunt, qui etiam illius imaginem illic Constituerunt. quaedam
autem mulier Caeteris ad tactum reliquiarum Sanctarum, Sacraeque imaginis Confluentibus, Dixit
Ego reliquias a Perside venientes nunquam venerabor, Haec subito dolore Correpta quatuor diebus
in Civitatibus Substitit, Donec ad templum Sancti Martiris deducta errorem Confitens
ad Ejus imaginis conspectum, et reliquiarum Contactum accessit, pristinamque recepit Sanita
tem. quod verum Patres confirmant, Hancque imaginem cum Sacro capite Romae usque nunc
asservari profitentur in quodam monasterio, ita Simeon Methaphrastes in Ejusdem marty
ris vita, qui plura ad rem in vita martyrum Cosmae, et Damiani, et alliorum martyrum
refert. Athanasius Alexandrinus in Sermone de imagine Jesu in Berito, idem lib. 4o
Contra Arrianos, Anastasius Theopolis episcopus in Epistola ad quendam amicum, quae
sic incipit, Si Doctrina existimaretur &a, Basilius Magnus in Oratione ad Sanctum
Barlaam martirem, Plura Congessit ad rem Petrus Grepetius in Summa Ecclesiasticae dis
ciplinae verbo imago.

Et si ex his Sacrarum imaginum veneratio Satis
Liqueat, non tamen Constat quo Genere Cultus aut quo stilo sit eis honor exhibendus, quod
tunc apparebit, cum quid prototypo, et exemplari debeatur Cognitum sit. Qua in re triplex
Genus Cultus a Sanctis Patribus Distinguitur. Alterum Latriae, Alterum duliae, alterum
denique Hiperduliae, quod nomen Cultus etsi apud Graecos Late pateat, Significetque quem
libet Servitutis actum, quem Servus Domino suo defert, usu tamen, et acomodatione
factum est, ut in Sacris Litteris, et a Sacris Scriptoribus usurpetur pro Supremo Servitu
tis Cultu, qui divinis debetur personis, ut Constat ex Augustino lib. 10. de Civitate Dei cap. 1o
et lib. 20. Contra Faustum. cap. 21. ex Isidoro lib. 8. Etimologiarum cap. ult. Unde etsi
haec nomina Graeca prima sua Significatione idem demonstrent, usu tamen Scripto
rum ad diversa Significanda accipi Solent. Latriae itaque Cultus est, qui Deo Domino
nostro debetur ex omnium Theologorum Calculo, eo quod sit cultus quo nos ipsi Deo sub
jicimur, ut Supremo omnium Domino, in eoque spem, et fiduciam Collocamus. Duliae Cul
tus, qui Sanctis viris Caelestis Patriae civibus tribuitur. Hiperduliae denique cultus
Dicitur, qui Deiparae Beatissimae exhibetur, ita ex fide docent Divus Thomas 2a 2ae q. 81.
art. 3o. ad primum Belarminus d. lib. 2. de imaginibus cap. 25. Azor d. 1o p. instit. mor.
lib. 9. cap. 5. ass. 3o quaeritur.

Haec circa exemplaria ex fide, et omnium Theo
logorum Placita absque Controversia Sunt. Dubium tamen vigens est an idem Cultus,
qui exemplaribus exhibetur sit imaginibus adhibendus, qua in re etsi varii existant
Patres, ut ex traditis a Belarmino, Azorio, et Divo Thoma, et aliis alias Constat,
tamen Concilii Tridentini Doctrinam ss. 25. de reformatione cap. de invocatione, vene
ratione, reliquiis Sanctorum, et Sacris imaginibus, amplecti tenemur, quae sequentibus verbis
proponitur. Imagines porro Christi, Deiparae Virginis, et alliorum Sanctorum in templis
praesertim habendas, et retinendas, eisque debitum Honorem, et venerationem imperti
endam, non quod credatur inesse aliqua in his divinitas, vel virtus propter quam sint co
lendae, vel quod ab eis sit aliquid petendum, vel quod fiducia sit in imaginibus
figenda, veluti olim fiebat a Gentibus, quae in idolis Spem suam Collocabant, sed
quoniam honos, qui eis exhibetur refertur ad prototypa, quae illae repraesentant, ita ut per
imagines, quas osculamur, et coram quibus caput aperimus, et procumbimus Christum
adoremus, et Sanctos, quorum illae Similitudinem gerunt veneremur, id quod Con
ciliorum praesertim vero secundae Nicenae Sinodi Decretis contra imaginum oppugna
tores est Sancitum. Ex quibus verbis docemur imagines Christi, et Sanctorum
ita Honorandas esse, dum tamen in eis non collocetur fiducia, nec ab eis aliquid
petatur, nec in eis ulla Divinitas inesse Credatur, sed solum Honorentur propter eos,

quos

quos orbis representant, itaque cultus qui proprie debetur imaginibus imperfectus cultus est, qui ana
logice, et reductive pertinet ad speciem eius cultus, qui debetur exemplari, itaque imaginibus Sancto
rum non debetur proprie dulia, sed cultus inferior, qui dici potest dulia secundum quid. Similiter deiparae
Virginis imagini non debetur hyperdulia simpliciter, sed secundum quid. Denique imagini
Xpti latria vera non exhibetur, sed cultus sine comparatione inferior, qui tamen reducitur ad latriam
ut perfectum ad imperfectum. ita docent Belarminus d. lib. 2. de imaginibus cap. 25. divus Thomas 3. p.

Nec sine ratione sacrarum imaginum vene
ratio in Ecclesia admissa est, cum per has mysteriorum, et fidei necessaria memoria retineatur
adversus Iudeos Xpti memoriam abolere volentes, et in dedecus eius imaginem transforma
re cupientes. Siquidem ut refert Eusebius lib. 9. cap. 5. ethnici confictis quibusdam portentosis
mendacijs Christum publice dilogiis, et famosis libellis deformique pictura hac inscriptione
traduxere. Deus Xpianorum Onochetes, erat autem auribus asininis, altero pede ungulatus,
librum gestans, et togatus. Sublime etiam, dum imagines Xpti, et sanctorum in memoriam exci
tant in nobis mirum amoris, et imitationis aculeos ad adorandum, ut inter paganos etiam sta
tuarum statuae; quod philosophorum imagines, ac picturae satis demonstrant, de quibus post
Sydonium Appolinarium epistola ad Faustum videndus Petrus Crinitus lib. 1. de honesta dis
ciplina cap. 11. Petrus Greg. lib. 12. de republica cap. 13. Nec apud Romanos hoc incogni
tum fuit, loquatur pro omnibus fortuna aurea, quae in cubiculis Principum Romano
rum poni solebat, ut signum imperij, quam Antoninus Pius moriturus ad Marcum
Antoninum transferri in signum translati imperij iussit, hancque regiam fortunam
Severus Imperator geminari statuit, ut sacratissimum simulacrum utrique relinqueret
filiorum Bassiano scilicet, et Getae, cui simulacro ob imperij notam maximus ho
nor habitus fuit, ita refert Petrus Gregorius d. lib. 12. de republica cap. 13. Quibus
fictitijs imaginibus, ac statuis causam praebuit utilitas publica ad illud videlicet, ut
ceteri de populo ad similia moverentur, et ut eorum nomina magnopere clarescerent
Sicque etsi in magna estimatione constitutae essent, valdeque antiquus earundem fuisset
usus, nullum tamen cultus illis exhibebatur, cuius veritatis testimonium praebet Im
perator Tiberius, dum suas statuas in templis ea conditione apponi permisit, ne
inter simulacra deorum, sed inter ornamenta constituerentur, sic statuerunt Imperato
res Theodosius, et Valentinianus in l. 2. C. de statuis et imaginibus, si quando nostrae
statuae, vel nunt Imperatores, vel imagines eriguntur sive diebus ut adsolet festis
sive communibus adsit iudex sine adorationis ambitioso fastidio, ut ornamentum
diei, et loco, et nostrae recordationi sui probet accessisse praesentiam. Idem etiam
Honorius, et Arcadius in l. 1. C. eodem titulo constituerunt ubi statuarum erectiones
beneficijs Principi, non adulationis causa debere poni. Facit Iurisconsulti Pauli decisio in
l. 2. ff. de loco publico fruendo, cedi inquit, solet, ut imagines, et statuae, quae orna
mento reipublicae sunt futurae in publicum ponantur. Idem Paulus in l. Aufidius 44.
ff. de privilegijs creditorum. Ulpianus in l. Statuas 41. ff. de adquirendo rerum domin.
Idem Ulpianus in l. is qui in puteum 11. § 1. ff. quod vi, aut clam, Labeo in l. Paulus
23. ff. de exceptionibus, Martianus in l. statuae 41. ff. de usufructu. Plura ad rem
ex ecclesiasticis historijs, ex alijsque locis dilucide congessit Petrus Greg. d. lib. 12. de republica cap. 13.

Sed licet sacrarum imaginum veneratio ex
utroque dictis in tuto esse videatur, omnino tamen everti videtur ex Canone Placuit 36
Concilij Illiberitani. Hec sunt eius verba. Placuit in templis non haberi picturas,

ne id

ne quod Colitur, et adoratur in Parietibus depingatur. Ex quibus verbis aperte evincitur Sacras ima
gines non Solum non venerandas, imo nec in templis depingendas. Cuius Canonis sententia adeo diffi
cilis visa est, ut Doctores, et Patres circa eam varie, ac diversimode se gerant. Aliqui dixerunt
Concilium Illiberitanum imagines in templis depingi prohibuisse necessitatibus exigentibus
Cum tunc temporis magnopere timeretur ne Gentiles putarent Xpianos adorare Ligna, et Lapides
utique et periculum erat, ne in persecutionibus imagines aliquam contumeliam paterentur
Cuius Doctrinæ author est Nicolaus Sanderus lib. 2. de Cultu imaginum cap. 4°. Quæ Solutio
Licet in se vera videatur, Canonis tamen verbis non adequatur, itaque admittenda non est.
Alij asserunt ideo ibi imagines depingi, et adorari prohiberi, quia à Xpianis tamquam Dij
adorari cœperunt, hunc que esse sensum putarunt, placuit in Ecclesia non esse picturas
ne aliquid in parietibus existens adoretur, et Colatur ut Deus. Huius sententiæ author
est Alanus Copus in dialogis lib. 5. cap. 16. quem sequitur Ivo in suis decretis parte 3ª cap.
40. Sed nec huic expositioni ratio Canonis convenit, Nam potius dici debuisset, ne id
quod pingitur adoretur, quam ne id quod adoratur pingatur. Alij denique nullam autho
ritatem Habere predictum Concilium asseverant. Quæ omnia, et allia quamplurima circa
predictum Canonem adducta, ut veram doceat Canonis sententiam, reprobat Belarminus
10 lib. 2. de imaginibus cap. 9. ad 2° ad secundum. Quare His omissis pro nostra potius doc
trina, quam contra considerari predictum Canonem certo certius est, Cum ex primis ver
bis colligatur eo tempore fuisse imagines in templis, non enim diceret Concilium placuit
in templis non haberi picturas, nisi iam esse cœpissent. Rursus ex posterioribus ver
bis ne quod Colitur, et adoratur in parietibus depingatur, Colligitur imagines Coli, et adora
ri, quo supposito ratio obquam in eodem Canone prohibetur, ne imagines in parietibus
Ecclesiæ depingantur ex eo eundem provenit Honore, quia in parietibus depictæ facillime Corrum
puntur, vel humore parietum, vel situ, qualibet ve alia ratione. Quasi mens, et intentio
Concilij fuisset, placuit picturas in templis, id est in ipsa fabrica, Siue muris Ecclesiæ non Habe
ri, ne id, quod adoratur, et Colitur in parietibus depingatur, id est ne contingat rem sacram
et venerabilem qualis est imago Sancta in parietibus adesse, ubi facilime corrumpantur, quam
Canonis veram expositionem docent Azor d° lib. 9. cap. 7. Belarminus d. lib. 2. de imaginibus
cap. 9. ad 2° ad secundum. Quo alludunt quoque expectant Imperatorum Theodosij, et Valenti
niani verba relata in l. unica. C. nemini licere Signum Salvatoris Xpi &a, Cum sit
nobis inquiunt Imperatores cura diligenter per omnia Superni numinis religionem tueri
Signum Salvatoris Xpi nemini licere, vel in Solo, vel in Silice, vel in marmoribus hu
mi positis insculpere, vel pingere, sed quodcumque reperitur tolli, Gravissima pœna mulctan
do eo, qui contrarium statutis nostris tentaverit, Specialiter imperamus. Quæ quidem
prohibitio ad illud videlicet tendit, ne signum Xpi, Hoc est, Crux docente Cujacio
in presenti, et imagines eo loci apponantur, ex quo potius dedecus, quam decus ipsi adhæreat.
Unde dicunt Hæretici, et Apostatæ valde infensi sunt Ecclesiæ nostræ, à similitiam qui in
Calciamentis sculpunt Crucem, ita predicxit ad rem Tiberius Constantinus apud Paulum
Diaconum Sic ait, Crucem Domini qua frontem nostram, et pectora munire debemus
eam sub pedibus Conculcamus: ita refert Cujacius in paratitlis ad dictum tit. C. nemini lice
re &a. Claudat agmen Haud inelegans ad rem Gregorij Decimi in Concilio Lugdunensi
Generali Decretum relatum in cap. Si Canonici 2° § ultimo de off° ordinarij lib. 6. sic fatur
Ceterum detestabilem abusum Horrendæ indevotionis illorum, qui Crucis, Beatæ Mariæ
Virginis, alliorumque Sanctorum imagines irreverenter aut tractantes, eas in agravabatis

Cessationis huiusmodi prosternunt in terram, et Urticis, Spinisque supponunt penitus repro-
bantes aliquid tale fieri de cetero prohibemus: Statuentes, ut illos, qui contra fecerint
ultrix procedat dura Sententia, quæ delinquentes sic puniat graviter, quod alios à simi-
lium præsumptione compescat. in quibus verbis non solum illorum consuetudo reprobatur
qui Virginis ac Sanctorum imagines in terram aliove inhonesto loco apponunt, imo et pœna gra-
vissima adversus contrafacientes imponitur, quæ aliquando mortis, aliquando privationis
officij est ut colligitur ex Glosa in dicto cap. 2º de officio ordinarij, et exd. l. unica C. nemini &c.

Hinc inde Luterani, et Calvinistæ ut hanc nostram catho-
licam Sententiam de sacrarum imaginum Veneratione evertant quam plurima sacræ paginæ ad-
ducunt testimonia. in Primis exodi 20 cap. 20. Non facies tibi sculptile, nec omnem similitudi-
nem, et paulo inferius Deos aureos, et argenteos non facietis mecum, et Deutheronomij cap. 4.
memento quod Dominus loquutus sit tibi in monte Horeb. Vocem verborum audistis, et imagi-
nem nullam vidistis, observa ergo te ipsum, ne forte deceptus facias tibi similitudinem
ullam. et Isaiæ cap. 40. Cui similem fecistis Deum, aut quam imaginem ponetis ei, et cap. 46.
Cui assimilastis me, et adæquastis, et comparastis me, et similem fecistis? qui confertis aurum de
sacculo, et argentum statera ponderatis conducentes aurificem ut faciat Deum. Ex quibus omni-
bus convincunt sacras imagines fieri, aut depingi nequaquam posse, sicque adorandas non
esse, cum earum constitutio prohibeatur, quibus locis ut satisfaciamus animadvertendum
est triplici modo posse aliquid depingi. Primo cum quid pingitur ad demonstrandam
similitudinem perfectam formæ, et naturæ ipsius rei, quomodo depictæ intelliguntur
res corporeæ lineamentis, et coloribus præditæ. Unde si quis ita Christum depingat idolum con-
ficiet. Altero modo ad exhibendam aliquam historiam oculis, veluti cum quis expulsio-
nem Adami de paradiso pingit, qui tunc Deum in forma hominis deambulantem depin-
git. Denique potest aliquid extra historiam depingi ad explicandam naturam rei non per
immediatam, et propiam similitudinem, sed per analogiam, sive metaphoricas, mixticas-
que significationes. Quibus animadversis prædictis difficultatibus satis faciendum
est asserendo intelligi debere prædicta loca de primo depingendi genere, nam si ita pinge-
remus Deum volentes scilicet eius similitudinem perfectam tanquam naturam ipsius
rei demonstrare, idolum efficeremus. Hoc enim est, quod in prædictis authoritatibus
prohibetur. Nec sine ratione, cum magnum dedecus ita paterentur imagines. = Vel etiam
potest dici in aliquibus ex prædictis locis non agi de imaginibus ad representandum Deum
verum factis, cum similes à Judæis non fierent, imo de quibusdam simulacris, quæ habe-
rentur pro Dijs, quasi diceret Deus si vobis simulacrum ligneum est Deus, cum ego etiam
Deus sim sequitur me similem esse Deo ligneo secundum vos. nam Deus Deo non posset
non esse similis, ita ijsdem verbis refert, et docet Belarminus d. lib. 2. de imaginibus
cap. 8. Azor tomo 1º inst. moralium lib. 9. cap. 6. in 1º textu quæritur. =

Iterum prædicta nostra doctrina circa sacrarum
imaginum venerationem oppugnari videtur ex Concilio Senonensi cap. 14. et ex Moguntino
no cap. 41. quibus in locis aperte, et sine distinctione docetur populum monendum
à concionatoribus esse, ne imagines adoret, ergo veneratio earundem frustranea prorsus,
cum hæc duo aprobata Concilia contrarium prædicent, sed huic difficultati facillime
respondendum est si superius dicta circa imaginum cultum perpendamus. Certum enim
ex dictis est imaginibus non eundem deberi cultum, qui exemplaribus exhibetur, imo
et inferior, qui ad eundem analogice, et reductive, et secundum quid expectet, ut ex traditis
à Belarmino, et Azorio ubi supra constat. Cum ergo prædicta duo Concilia edocent generaliter
imagines à populo adorandas non esse de adoratione latriæ debent intelligi, quasi edoceant
exemplaribus latriæ cultum non exhibendum. Quo expectat Concilium Nicænum 2. act. 7. docet
imagines adorandas esse, sed non latria. ita docet Belarminus d. lib. 2. de imaginibus cap. 22.

Nec adhuc contenti sunt infideles, imo et predic
tam nostram doctrinam respuant, et reiiciant aliqua adducunt concilia, in primis concilium
Constantinopolitanum sub Leone 3.o constitutum, alliam etiam Sinodum Constantinopolita
nam sub Constantino Copronimo Imperatore teste Paulo Diacono lib. 22. verum Romanary
ex quibus aperte deprimitur in iisdem constitutis esse imagines abolendas esse, utriusque acta
prolixe referunt Centuriatores centuria 8. cap. 9. Cui difficultati satisfaciendum est di
cendo predicta duo concilia Constantinopolitana illegitima fuisse, eiusque precepta nulla
vim obtinere, cum in illis Pontifex Romanus nec per se, nec per legatos adfuerit, ut ex Ioanne
Cedreno Paulo Diacono, et aliis constat, regula enim ecclesiastica Concilii Niceni primi
est Generalia Concilia absque Romani Pontificis authoritate celebrari non posse, ut refert Socra
tes lib. 2.o cap. 13. Sicuti nec cetera concilia absque illius presentia, sub qua debent celebra
ri frustranea sunt, docente Belarmino lib. 1.o de conciliis, et ecclesia, cap. 12, ubi ergo in his
duobus conciliis Constantinopolitanis adfuerint in primo Sanctus Germanus Patriarcha
in secundo Claudius episcopus Constantinopolitanus, minime eorundem celebrationi con
senserunt, nec aliquis est author de conciliis generalibus scribens qui de his duobus
mentionem unquam faciat, ut Psellus, Photius, Zonaras, Nicephorus, Paulus diaconus
et alii scribunt non absque reprehensione predicta concilia relinquentes. Imo ubi dicere aude
remus ille concilia legitima fuisse sustineri posset, nam eis derogatum fuit per secundum
Generale concilium Nicenum, sic omnia testante, et dilucide Belarmino ubi s.o, et in lib. 2. de
imaginibus cap. 14. quem sequitur Aler ubi proxime cap. 6. in Ceterum.

Tertius, ac robustius putant Heretici fundamentum
contra sacrarum imaginum venerationem, Decretum Concilii Francofordiensis, quo non solum
cautum fuit imaginum venerationem omnimodo respuendam, verum etiam Septimam nostram Sy
nodum Nicenam venerationem precipientem prorsus corrigendam, ac emendandam, ita
referunt Hincmarus Remensis lib. contra episcopum Landunensem cap. 20, et Joannes Aven
tinus in Historia, seu annalibus Boiorum lib. 4. aliique plures. Sed nihil nostre doctrine
predicta Synodus obest, nam cum eiusdem celebrationi Adrianus Pontifex, legatique ipsius
repugnaverint, nullius videtur authoritatis esse propter regulam, que docet nullam posse
legitimam, ac idoneam Sinodum vocari, cui Romanus Pontifex repugnans abfuerit, ita
Centuriatores dicunt Centuria 8. cap. 9. Columna 639. late, et elegantier docet Belarminus
lib. 2. de conciliorum authoritate cap. 8. ubi de concilio autem Francofordiensi. = Inde etiam
Heretici ad hanc nostram doctrinam evertendam aducunt Imperatoris Adriani factum, qui cum Christia
nis magnam gratiam facere desideraret, precepit templa ipsismet extrui, dum tamen sine simulacris
fierent, sed ait Adrianum Imperatorem jussisse fieri templa sine simulacris, s. gentilium
nam Christiani orare nolebant in templis gentilium, quia plena erant idolis, ideo ergo iussit fie
ri templa sine huiusmodi idolis, teste Aelio Lampridio in vita eiusdem Adriani, qui la simu
lacra appellat numina, que imagines non vocantur, nisi proponantur adorande pro Diis ita Be
larminus ubi s.o cap. 9.o =

Cum Ichonomachi sacrarum imaginum oppugnatores
convincantur, deserunt concilia, et a ratione argumenta conficiunt, asserentque imagines in
templis constituendas non esse, itaque nec adorandas, 1.o nam ut illi inquiunt imago non est capax
honoris cum sit res inanimata, et sensus ac rationis expers, ergo adorari neutiquam debet
Rursus, quia templa sunt instituta pro imaginibus vivis, atque a Deo institutis, quales sunt
Baptismus, qui est imago interne sanctificationis, et gratie, et Sacra Cena, que est imago
corporis Domini, non vero pro imaginibus mortuis, nam sicut templa ornantur imaginibus
vivis, ita dehonestantur mortuis. Ergo falsa imaginum adoratio. Priori argumento a ratione
deducto satisfaciendum est dicendo imaginem per se honorari debere, imo ut facta relatione

ad exemp

ad exemplar. Posteriori vero dicendum est imagines vivas, ac mortuas minime contrarias esse. imagines quae sanctorum mortuorum sunt, nam imaginis vita repraesentatio est, illud vero mortuum nuncupatur, quod nihil repraesentat, certe quia imagines sanctos repraesentant, cum illi qui pro Christo vitam tradunt in perpetuum per gloriam vivere intelliguntur, mirum quod non sint adorandae. Ita Bel-larminus ubi proxi. cap. 8.

Concilia, sacrae paginae testimonia, ac rationes deserunt haeretici, et ad Patrum recurrunt authoritates. In primis divum Hieronimum dicunt in

[illegible] cum in cuius inventorio [illegible]
[illegible] de [illegible] [illegible] 3.
Die 2a mensis Martii anno 1699.

Expositio ad textum difficilem et famosum

: In summa cap. Si quis suadente diabolo 29. 17. q. 4 [illegible] :

In hoc textu, cum pluribus aliis iuribus hic referendis agitur de poena [illegible] qui violentas manus in clericos iniecerint. ad quam [illegible] exponendam sequentem statuimus [illegible]: qui violentas manus in clericum, vel monachum iniecerit et sacrilegium committit, et incidit in excommunicationem summo Pontifici reservatam probatur ex [illegible] cap. 7 [illegible] 3. cap. in dubiis 5. de mulieres 6. [illegible] sequentibus, cap. [illegible] 19. cap. [illegible] 23. cap. [illegible] 29. cap. [illegible] 32. cap. [illegible] 33. cap. [illegible] 36. cap. [illegible] 37. cap. [illegible] 47. cap. [illegible] 50, cap. [illegible] 58. de sent. excommunicationis, cap. [illegible] 23. eodem tit. in 6. et ex extravagante [illegible] [illegible] [illegible] 3. et 4. [illegible] [illegible] [illegible] [illegible] cap. 27. n. 76. [illegible] § 17. n. 14. et § 16. n. 16. [illegible] [illegible] 55 n. 5. Coll. tit. 1. [illegible] 11. [illegible] 31. n. 4. [illegible] 4. cap. [illegible] n. 12, [illegible] Placa de delictis cap. 48. [illegible] tit. [illegible] 97. [illegible] n. 11. [illegible] 22. [illegible] 3 [illegible] Abila [illegible] 3. p. [illegible] 3. cap. 9. dubio 7. Petrus Molina [illegible] 4. tract. 3. [illegible] 50 [illegible] 66. Thomas Sanchez [illegible] 9. [illegible] 4. [illegible] Coll. 24. [illegible] Coll. [illegible] =

Covarrubias [illegible] cap. 180. n. 19.

n. 2.

[illegible] sequentibus dubitationibus. 1. [illegible] 42 [illegible] cap. [illegible] Canonica [illegible] 16. [illegible] cap. [illegible] 26 de appellationibus, cap. [illegible] 43 de sent. excommunicationis, [illegible] violentas [illegible] in clericos iniecerit [illegible] cap. [illegible] cap. [illegible] 41. 42 [illegible] cap. [illegible] 17 45. [illegible] de [illegible] =

n. 3.

2. difficultas [illegible] quando quis violentas manus in clericum, vel monachum [illegible] sacrilegium incurrit, sed tantum ille qui aufert sacrum de sacro, vel non sacrum de sacro, [illegible] cap. [illegible] 4. cap. [illegible] 17. q. 4. [illegible] sacrilegium [illegible] vel [illegible] talis [illegible] duodecimarum [illegible] cap. [illegible] 17. q. 4. [illegible] cap. [illegible] 25. [illegible] sacrilegium [illegible] manus violentas [illegible] clericum aut monachum, [illegible] excommunicationem [illegible] =

n. 4.

3. difficultas ex sequenti [illegible] violentas [illegible] in clericum, [illegible] aut [illegible] nulla [illegible] cap. [illegible] de sent. excommunicationis cap. [illegible] 86. [illegible] vel [illegible] cap. [illegible] voluntate 50 [illegible] 13. de sent. excomm. cap. Si clericus eodem tit. in 6. vel [illegible] cap. [illegible] 4. [illegible] de sent. excommunicationis, vel [illegible] [illegible] Canonici [illegible] [illegible] in clericum, [illegible] absolute [illegible] =

n. 5.

4. et ultima difficultas [illegible] violentas [illegible] monachi [illegible] talis [illegible]

in solum absolvi potest a Romano Pont., Vernetz [illegible] de [illegible] cap. [illegible] 3.o et 4. cap. [illegible]

ad eminentiam 10. de sent. excomunicationis et quod magis est [illegible] absolutionem [illegible] cap. [illegible] 17. [illegible]

[illegible] qui Clericos inenormam, sed modicam et levem iniuriam [illegible] [illegible] arbitrio [illegible]

[illegible] potest [illegible] cap. [illegible] 16. cap. [illegible] 17. [illegible] 4. [illegible] absolvendi [illegible]

Violentas clericorum [illegible] occassionem [illegible], [illegible] Pont. [illegible]

solum indicare [illegible] quod [illegible] excomunicatio [illegible] =

n.o 5.

[illegible] difficultatibus minime [illegible] [illegible]

[illegible] Clericos [illegible], qui [illegible]

[illegible] vel qui [illegible] habent, vel qui in [illegible] ordinatillam [illegible] gradus [illegible]

[illegible] Christi [illegible] Domini nostri Consecrant cap. [illegible] cap. [illegible]

[illegible] cap. [illegible] 14. [illegible] cap. [illegible] 10 96 [illegible] de [illegible] 7. 8 [illegible]

[illegible], [illegible] Angelorum [illegible] reverenter [illegible]

angelos [illegible] est, [illegible] Sublimis est [illegible] nec [illegible]

Divus Bernardus [illegible] sacerdotes [illegible] ordinis [illegible] Vos Deus [illegible] ordinibus angelorum

[illegible] Angelicis [illegible]. [illegible] dignitatem et excellentiam facile [illegible] potest [illegible]

[illegible] cap. Clerici [illegible] et. [illegible] Sacer [illegible]

est [illegible] cap. 19. [illegible] Coram cano capite [illegible], et honora [illegible] personam [illegible]

[illegible] cap. [illegible] de [illegible], [illegible] Tiraquellus [illegible] cap. [illegible]

[illegible] n.o 79. et [illegible] et reverentiam Clericis exhibendam [illegible] [illegible] 25

[illegible] Gabellis [illegible] [illegible] [illegible] sacerdotis, de [illegible] [illegible]

[illegible] 54 [illegible] Clericorum excellentia et reverentia [illegible]

[illegible] Catholico gloriosam 4. [illegible] Consideratio [illegible] sacerdo-

[illegible] =

n.o 6.

† Inprimis itaque animadvertimus Censuram hanc ad Clericos in solo

masculos, [illegible] 1. [illegible]

[illegible] 95. [illegible] 33. [illegible]

[illegible] 10.

[illegible] 12. [illegible] Verae, et [illegible]

ut in [illegible] masculinum [illegible]

[illegible] 10 [illegible] Tiraquellus de retractu [illegible] 1. § 2. [illegible] 9. n.o 45 et Molin

[illegible] 57 [illegible] 9. [illegible] 1. [illegible] mulieres [illegible]

cap. de monialibus 33. de sent. excomunicationis, L. 4. [illegible] 9. [illegible] et licet [illegible] mulieres [illegible]

[illegible] Clericorum [illegible] absolutionem [illegible] speciali [illegible], ut [illegible]

[illegible] [illegible] cap. [illegible] 2.o de [illegible] [illegible]

Virorum [illegible] cap. [illegible] 11. [illegible] de procuratoribus. [illegible]

[illegible], et [illegible], sive [illegible] sive [illegible] Clericus [illegible],

[illegible] Canones [illegible], [illegible] ad [illegible] [illegible]

[illegible] 50. [illegible] =

n.o 7.

Diuinae [illegible] suadente diabolo [illegible] Violenter

Clericis [illegible] manus [illegible] suadenti, ille enim tenebras [illegible]

[illegible] [illegible] quaerens, quem devoret, [illegible]

[illegible] cap. [illegible] 3. [illegible] cap. [illegible]

[illegible] Censura [illegible]

Diabl

Quibus fecerit, docet, nisi in Clericum percutiendo ... illata peccet lethaliter ... et dolus [illegible] ... numero 9. de [illegible] excommunicationis, siquidem maior excommunicatio non incurritur, nisi ob peccatum mortale, ... [illegible] ... n. 9. ... Navarrus ... cap. 27. n.º 9. ... de Ferraris ... cap. 27. n. 1. = Vel si proveniat furiosus, vel infans, vel ... [illegible] ... habet Canonis ... Canonis ... [illegible] ... pecant, nec delinquunt, de furioso ... cap. ... 4. 3. q. 9. cap. ... cap. illa ... 15. q. ... 4 ... de off. ... [illegible] ... quia ... excepit, ut ... Canonis ... Canonis, ... quod videat, ... 2. 15. q. 1. ... de ... l. ... 3. § 1.º ... 7. l. ... ad l. Corneliam de Sicariis. l. 1. C. de falsa moneta, ... de ... qui nec delinquunt, peccant ... [illegible] ... [illegible] ... Canonis ... [illegible] ... liberantur, ... l. ... delictis ... 5 ... qui ... l. ... delinquentes ... 16. § 1.º ... de ... n.º 3. ... [illegible] ... de ... 77. de Mendoza ... 325. ... =

n.º 8.

Verumtamen haec doctrina ... cap. ... cap. ... finali de ... excommunicationis, ... Canonem ... ex violenta ... personae clericorum ... [illegible] ... = ... [illegible] ... et ... delinquens, ... personam ... Canonem ... cap. ... cap. ... de ... excommunicationis ... est ... et ... cap. ... 15. q. 1. ... C. de falsa moneta, ... apostolicam mittendus, ... [illegible] ... accedere ad Sedem Apostolicam ut absolvatur, ... [illegible] ... = Vel si proveniat percutiens Clericus ... vel ... [illegible] ... violentiam, ... [illegible] ... ex libero arbitrio, ... cap. ... de ... excommunicationis ... [illegible] ... 15. q. 1. ... 3 ... 25. ... l. ... § ... 7. ... [illegible] ... violentiam ... clericus, ... violentiam ... peccat, nec ... [illegible] ... excommunicationis ... 6. n.º 5. ... clericum ... [illegible] ... ex doctrina ... =

n.º 9.

Circa praeinde ... est ... [illegible] ... 3 ... corporalis ... et ... delicti, ... [illegible] ... per ... [illegible] ... reos. ... [illegible] ... [illegible] ... Julian ... [illegible] ... Corrigerentur ... 25. ... Mortalis ... [illegible] ... Clericos ... 10 ... apostolicam ... 4. ... cap. ... 17. q. 4. ... [illegible] ... qui ... [illegible] ... clericis ... [illegible] ...

tradit Pater Greg. T. B. Sintagmat. Juris cap. 14. n. 6. et cap. 16. n. 1. = In Cuius rei Confirmat. [illegible] Imperatores [illegible] appellare [illegible] Constitutionum Violatores [illegible] l. Unica C. de [illegible] l. 1. [illegible] dignitatis Ordo servetur tit. 12. [illegible] lege 13. C. de [illegible] militum [illegible] Tit. 13. Observat. cap. 19. Covarr. tit. 2. [illegible] cap. 1. n. 2. nulla [illegible] principum [illegible] Imperatorem [illegible] Violatores [illegible] appellari [illegible] =

n. 10.

Quinimo [illegible] Clerici [illegible] Clericali [illegible] minoribus, Vel sola prima tonsura [illegible] Violat [illegible] Clericos [illegible] cap. [illegible] Molina [illegible] cap. [illegible] n. 24. n. 7. Clerici [illegible] Clericali [illegible] Vel [illegible] C. de [illegible] de Clericis cap. [illegible] 4. dist. [illegible] cap. [illegible] 11. [illegible] Ordo [illegible] Clerici [illegible] Sanchez [illegible] tit. 2. n. 524. [illegible] Clerici [illegible] gaudere [illegible] Canonis privilegio [illegible] de Clericis [illegible] tit. 6, [illegible] tonsura [illegible] Clericalis, atque [illegible] cap. [illegible] Barbosa [illegible] n. 33. [illegible] 1. [illegible] Greg. T. tit. 9. [illegible] cap. [illegible] 6. [illegible] cap. [illegible] privilegio gaudere [illegible] Concilio Trid. tit. 23. de reformat. cap. 6. [illegible] Clericos [illegible] privilegio gaudeat [illegible] Tit. 7. de [illegible] 46. [illegible] privilegio [illegible] Clericali [illegible] Clerici [illegible] cap. [illegible] Didacus [illegible] tit. 1. tit. 1. [illegible] Turrecrem. [illegible] n. 62. =

n. 11.

[illegible] Violatores [illegible] religiosi [illegible] cap. [illegible] 9. cap. [illegible] Canonis privilegio [illegible] gaudet [illegible] religiosis [illegible] de Clericis [illegible] cap. 28. [illegible] cap. 27. n. 69. [illegible] cap. 26. n. 5. [illegible] cap. 42. n. 24. et [illegible] n. 22. = [illegible] privilegio Canonis gaudent [illegible] Violatores [illegible] privilegio [illegible] gaudere [illegible] tit. [illegible] Canonis [illegible] §. [illegible] Ordine [illegible] Violatores [illegible] Canonis [illegible] Molina [illegible] cap. 4. =

n. 12.

[illegible] Clerici [illegible]

obtinent ecclesiastica [illegible] hoc privilegio gaudent, et [illegible] militibus, [illegible]. Quae [illegible] Contentio inter Martinum Navarrum, et Franciscum [illegible]. Navarrus enim in apologia [illegible] 91. num. 55. [illegible] apologia [illegible] 4. affirmat, et late defendit [illegible] vere [illegible] Vere Religiosos, et [illegible] gaudere Canonis, et fori privilegio. [illegible] 4. [illegible] 13. [illegible] affirmat [illegible] simpliciter, et perfecte religiosos, neque [illegible] ecclesiasticos, et [illegible] hoc gaudere privilegio Canonis, et [illegible] Commendatores [illegible] hoc privilegio gaudere, [illegible] Votum profess[illegible], [illegible] bullas [illegible] habent [illegible] privilegia, [illegible] cap. [illegible] 50. de [illegible] excommunicatione [illegible] observari [illegible]. Religiosi [illegible] Calatrava, [illegible], et Alcantara [illegible] Ordinis hoc Canonis privilegio habuerunt, [illegible] Alexandri [illegible] anno 1565. [illegible] privilegia Canonis [illegible] 50. [illegible]

n.º 13.

[illegible] notandum est [illegible] Violentam manuum iniectionem [illegible] membra, [illegible] Navarrus [illegible] cap. 27. n. 77. [illegible] Violentia [illegible] Clerici [illegible] cap. nuper [illegible] de sent. excommunicationis [illegible] Navarrus [illegible] 8, [illegible] cap. 26. n. 45. = [illegible] Clericum [illegible] cap. nuper n. 2. de sent. excommunicationis [illegible] Clericus [illegible] Caietanus, et Navarrus [illegible] cap. 26. n. 43. [illegible] 4. [illegible] Paulus [illegible] =

n.º 14.

Ex quo provenit [illegible] Violentam iniectionem [illegible] cap. nuper [illegible] Violenter Clericum [illegible] hac lege 10. [illegible] Clericum [illegible] lex [illegible] 7. [illegible] Sacerdotes [illegible]

[illegible] cap. [illegible]

carne et manus injiciuntur, et personae sacerdotis fit injuria, arg. text. in l. 2. C. de Episc. nonnunquam [illegible] l. si quis in tantam C. de Ep. [illegible] quibus [illegible] tradunt Menochius de arbitrariis casu 389. [illegible] Coll. [illegible] 2. Vers. [illegible]

n. 5. Cum adversus aliquos resolvunt [illegible] quod si Clerici [illegible] profert Canonis [illegible] [illegible] verum cum violentia distinguatur ab actibus fraudulentis dicendum putamus [illegible] qui furtive tolleret [illegible] ex loculo in Clerico gestato, vel aliam rem ex [illegible], quas actualiter Clericus [illegible] excommunicationem, quamvis [illegible] intervenerit, cum in violentia [illegible] furtiva [illegible] ex doctrina [illegible] 10. [illegible] nota 2. quam animadvertit [illegible] 1. in incidere in [illegible] Canonem, qui [illegible] Clerico [illegible], cum sit nulla violentia actus exterioris, cum sola [illegible] videatur [illegible], et tamen [illegible] intervenerit. =

n. 15.

Ex his descendit [illegible] Canonis [illegible] incurrere non solum [illegible] manus in Clericum injecit, sed etiam qui mandavit Clericum [illegible] aut [illegible] cap. mulieres 6. §. illud [illegible] excommunicationis [illegible], quoniam illi [illegible] et mandato violenter injiciunt manus, [illegible] §. illud, ubi [illegible] auctoritate cap. ut famae [illegible] excommunicationis. et hoc [illegible] dicimus [illegible] dolo [illegible] consulit, auxilium, favorem aut consensum [illegible] violentiae, et percussioni Clericorum [illegible] cap. quante 47 [illegible] dummodo effectus, [illegible] percussio sequatur, quia [illegible] Canon [illegible] de percutiente, et secundario de mandante et consulente, [illegible] Canonis [illegible] sequuta percussio, ut animadvertit Navarrus [illegible] cap. 27. n. 41. [illegible] favorem [illegible] qui cum prohibere percussionem posset, non prohibuit [illegible] cap. quante [illegible] excommunicationis. = [illegible] decisio procedit in percussione [illegible] nomine alieno, si ille cujus nomine [illegible] ratam habuit, cap. [illegible] 23. de sent. excommunicationis [illegible] 6. [illegible] Navarrus [illegible] Alvarez [illegible] [illegible] cap. 52. [illegible] [illegible] plures referens [illegible] Ord. [illegible] 62. = [illegible] mandans aut consulens [illegible] revocaverint, distinguendum est, [illegible] revocationem [illegible] Clericus [illegible], utrumque [illegible]; [illegible] percussionem mandatum fuit revocatum, [illegible] mandatarius [illegible] venerit, [illegible] excommunicatus ille qui mandaverat, [illegible] postea [illegible] Clericum [illegible], [illegible] Clericum [illegible] mandaverat, [illegible] dummodo [illegible] mandatarius, quia [illegible] [illegible] excommunicationis [illegible] 2. [illegible] 9. =

n. 16.

Provenit etiam ex dictis excommunicationem Canonis [illegible] Clericus [illegible] [illegible] vel [illegible] delicti [illegible] Clericus [illegible] [illegible] cap. Contingit 36. de sent. excommunicationis. [illegible] videatur violenta, [illegible] [illegible] loquitur quia hinc [illegible]. [illegible] cap. Contingit [illegible] [illegible] sit violenta, [illegible]. [illegible] Clerico [illegible] cum [illegible] cap. [illegible] 27. de [illegible] 6. [illegible] 145. [illegible] excommunicationem [illegible] cap. Contingit [illegible], et Ordini Clericali [illegible] [illegible] Clericatus [illegible], quia [illegible] Canonis privilegium [illegible] Clericali [illegible] cap. [illegible], [illegible] favore Clerici Ordinis [illegible] Clericalis [illegible] [illegible] cap. [illegible] Corporali, [illegible] Mat. [illegible] 55. [illegible] 8. Clericus [illegible] [illegible] [illegible] cap. [illegible] qui percu- [illegible] excommunicationem [illegible], aut [illegible], [illegible] cap. [illegible], [illegible] excommunicationem, [illegible] excommunicatus. = [illegible] Canonis [illegible]

n. 17.

decr. excomunicati, sufficiat ad excusandos Canonis incursum, nam in eo dicitur vel respectu Clerici, vel respectantes ordinis Clericalis, sed ubi Venit ex Clericum percutit Violenter, et clericorum ordinis... impediens incurret Canonis Censuram, ut si illi Clerici in eodem actu, tempore Vitij, vel alia de causa ... ipsos Voluerunt aut ... ex eo ... Clericus Violenter

manus, ... Clericos ... Clericis ... ad similiter ...

de ... ex ... tit. 9. ... =

n.o 17.

Secundum doctores Conferri ... et Romanos ...

putabant ... ex ... si clerum 9. § ... de speculo, hoc ... quoniam

illos ... delict. ... qui Voluerunt

decr. ... Cap. ... Clericus ... Ca-

nus ... 37 ... Menochius de arbitr. ... Covarr. ... n.o ... Cenam ...

... § ... 77 ... de ... cap. 16. n.o 54. ...

... 51. n.o 4. ... Clerico, qui ex ...

... doctrina ... ; ... cul-

pa, nec ... ex Domino ...

... cap. 20. n.o 9. ... incurre-

re ... Canonis excommunicationis, ... Violenta, nec ... nec

respectu ... Molina ...

§ 1. n.o 5. ... =

n.o 18.

... Clericus ... Canon-

... 47 ... excommunicatus ... 21. 9. 5. ... Clericus excommunicatus Cano-

nis ... privilegio gaudere ... Violentas ... Censuram, ... Clericus ... hoc ...

... Clericus ... cap. ... excommunicatus, ... gaudere debet Clericus excommunicatus, quo-

niam ... privilegium ... cap. ... 7. ... cap. Cum ... 5. ...

... cap. ... de monachis ... excommunicationis, ... vel monacho-

bus ... in Canone ..., et ... : ... excommunicatus ...

percussor ... excommunicatus Canonis privilegio gaudere ...

... cap. 26. n.o 5. = Nec ... excommunicatus ...

... 12 ... 3. 9. 4. cap. ... 32. § 3. ... privilegio ... gaudere ...

quod Clericus ... Clericus ... cap. ... §. ...

clerico excommunicato ... = Nec ... cap. excommunicatus, ... Clerico ex-

communicato, ... excommunicationis ... extra ...

... Clericus ... excommunicat. ...

... cap.

n.o 6. ... =

n.o 19.

... privilegio ... Clericus

depradatus ... Clericus depredatus ... Canonis ...

... cap. de predatoribus ... 6. ... de monachis ... deprecatus ...

... cap. de predatoribus ... 2.o 54 ... = Altera ...

Cum

linquam percussit Clericos degradatos quem defendit Suarez cap. ad abolendam [illegible] pro quibus [illegible]
Clerus lib. 1. tit. 3. lib. 1. Ordinarium et luculentem, quia etsi per degradationem Clericalis dignitatis privatur, adhuc [illegible]
debet privilegijs dignitatis juxta cap. ad cap. Ostenditur 32 de consecrat. dist. 4 [illegible] Cuius [illegible]
[illegible] = Sicut hanc difficultatem [illegible] degradatos [illegible] ordinibus et [illegible]
aut abolendam; Verbaliter etiam per [illegible] removet a beneficijs et officijs, nullius privilegij [illegible]
degradatio est Cum post Verbalem [illegible] ordinis absolvitur, Cuius [illegible] in cap. degradatio
cap. [illegible] 3. et hodie in Concilio Trid. sess. 13. cap. 4 de reformat. quo animadverso dicit [illegible]
Clericos Verbaliter et actualiter degradatos, etiam si Verbaliter tantum degradatus sit, gaudeat privilegio Canonis
Si quis degradatus fuerit actualiter, [illegible] Clericali privilegio, licet [illegible] Canonem [illegible]
damnatos [illegible] cap. degradatio et in d. cap. ad abolendam, illis quae post aliquos antiquiores tenet Molina [illegible]
[illegible]; quamvis subsequuta actuali degradatione et ademptione Clericatu, detur beneficijs et privilegijs [illegible]
Curiae saeculari, et minime gaudet Canonis privilegio et hanc procedit per d. cap. degradatio de [illegible] cap. [illegible]
[illegible] de [illegible] L. 3. [illegible] 4. [illegible] tract. [illegible] lib. 3. [illegible] 30. n. 3. =

n. 20.

Verum adversus hanc doctrinam sequens [illegible] difficultas [illegible]
Considerat quando Clericus actualiter degradatus ordine [illegible], nec privilegio ordinis [illegible]
[illegible] degradatus [illegible], ut debet, profert, Vere [illegible] constat, licet [illegible]
d. cap. ostenditur de consecrat. dist. 4 cap. quod quidam 97. [illegible] degradatus [illegible]
clericus ex [illegible] [illegible] Canonem, et alij [illegible] Cuius ratio est, quia Character
[illegible] est [illegible] indelebile [illegible] in anima [illegible] cap. quod quidam [illegible] degradatus [illegible]
doctrina [illegible] cap. [illegible] de [illegible], quam Vere et Catholice tradit [illegible] lib. [illegible] Ver. cap. 10. n. 8.
de [illegible] [illegible] lib. 2 cap. 11 [illegible]
quia delevit [illegible] Ordinis Character [illegible] sess. 7. de Sacram. [illegible] 23. cap. 4. [illegible]
[illegible] lib. 3. cap. [illegible]
[illegible] Character [illegible] privilegio [illegible]
[illegible] actualiter degradatus [illegible] = Facilius [illegible] difficultas [illegible]
Si dicamus [illegible] Clericus degradatus Character, [illegible] Canonis privilegio [illegible]
[illegible] Collegio Clericali [illegible] degradatus, [illegible] Ordinis [illegible]
[illegible] ordinis, [illegible] Character [illegible]
[illegible] privilegio Canonis, [illegible]
[illegible] L. 1. §. [illegible] de [illegible]
[illegible] Clericus [illegible] lib. 4. de delict. [illegible] =

n. 21.

[illegible] Clericum [illegible] in [illegible] Violentas [illegible]
[illegible] Clericus [illegible] Canonem [illegible], ut [illegible] Clericus [illegible]
[illegible] Clericus [illegible]
Clericus [illegible] Violentas [illegible] Canonem [illegible]
qui Clericum percussit cum propria Uxore [illegible] filia Vel sorore [illegible] cap. 3. de [illegible]
[illegible] Canonem [illegible]
[illegible] Clericus [illegible] de [illegible]
Vi repellendo Clericus [illegible] cap. [illegible] cap. ex tenore de [illegible] cap. [illegible] 28
[illegible] Clericus [illegible] Clericus [illegible]

cap.

cap. 4. de rit. et in d. cabemus, et similiter qui cod Corrector... clerici per carum cap. ... sitibus 24. cap. ... 54. §. finali de ... excomunicatione. ... Canonistae ... communiter ... Covarrubias ... Panormitanus, Felinus et alij ... super dicto cap. excommunicat. Menochius lib. 2. de arbitrarijs casu 447. n. 7. Filiucius lib. 3. de officio sacerdotis cap. 33 Navarrus in manuali cap. 27 n. 80. Coll. in cap. ... §. 10. n. 15. ... cap. 27. ... Molina de iust. et iur. ... disp. 53 ... =

n. 22.

Succedunt in expensa ... excommunicatio ... quoad ... significant, cap. ... cap. 3. ... cap. ... cap. nemo episcoporum 41. cap. ... 87. cap. quoniam ... 103. cap. debent 106. 11. q. 3. cap. 1. ... 9. 24. q. 3. Licet quoad ... differant, quoniam anathema ... receptis ... Pontificali Romano, ... tabula 2. cap. 29. ... significat ... Matthaei ... cap. 4 ... Petrus ... anathematizare, ... Paulus ad Corinthios cap. ... anathema ... significat ... excommunicatione ... anathema ... cap. ... de sent. ... excommunicatione frequenter ... ut docet Coll. in cap. ... §. 8. n. 6. ... Conc. Trid. ... excommunicatione ... =

n. 23.

Deinde ... absolutione Apostolica ... Clericis, ... Apostolica ... sententiae ... n. 70 ... 26. n. 82. = ... absolvere ... cap. 4. ... excommunicatione ... Navarrus in manuali cap. 27 n. 89. ... n. 7. = ... cap. ... de excommunicatione ... cap. ...

quibus [illegible] excludi videntur Abbates, et alii [illegible] inferiores, [illegible] Episcopi [illegible] fratres [illegible] inferiores [illegible] filii [illegible] de [illegible] sententia [illegible] excommunicat. [illegible] Sequitur [illegible] lib. 3. [illegible] cap. 28 n. 2. =

n. 24.

Verum [illegible] hanc doctrinam [illegible] videntur [illegible] in cap. [illegible] fortè [illegible] Clericos graviter [illegible], cap. [illegible] 32 [illegible] cap. [illegible] 5. [illegible] de sent. excommunicationis et cap. [illegible] de [illegible], et [illegible] Clericos [illegible] in [illegible] excommunicat. absolvere [illegible] si excessus, et iniuria atrox et gravis [illegible], nisi personam [illegible], velut [illegible], et [illegible] levis absolutio ad [illegible], nisi [illegible] habeat privilegium. = Pro [illegible] difficultatis [illegible] observandum est [illegible] levis, mediocris, et enormis vel atrox. [illegible] peccatum gravis [illegible] vel atrox ex [illegible], circumstantiis [illegible] [illegible] de [illegible] item [illegible] 156. [illegible] iniuria [illegible] mediocris inter levem et enormem, [illegible] arbitrio relinquitur [illegible] ex [illegible] arbitrio [illegible] de arbitrariis lib. 2. [illegible] 263. [illegible] 27. n. 9. [illegible] resolutionis [illegible], si [illegible] levis fuerit, poterit [illegible] absolvere Clericos [illegible] cap. [illegible] mediocris [illegible] potest, nisi [illegible] privilegiatas personas [illegible] cap. [illegible] intelligenda. Si excessus fuerit enormis, et iniuria atrox, a solo Papa absolvi potest, [illegible] privilegiatus [illegible] personas [illegible] privilegiatas [illegible] Clericos [illegible] versibus [illegible].

Regula, mors, sexus, [illegible], puer, officialis —
[illegible], [illegible], [illegible], [illegible] —
Ianitor, [illegible], [illegible], [illegible] —
[illegible] absolvi [illegible].

n. 25

Igitur [illegible] explicatio [illegible]. 1. [illegible] regularis [illegible] fiat [illegible] regularis [illegible] absolvi [illegible], cap. [illegible] de sent. excommunicat. [illegible] Clericus secularis [illegible] absolvendus cap. [illegible] [21] de sent. excommunicat. lib. 6. Sed si [illegible] religiosum alterius monasterii, absolvitur [illegible], et [illegible] cap. [illegible] [32] de sent. excommunicat. = Mors; [illegible] in periculo mortis, [illegible]. = Sexus [illegible] mulieres [illegible] conditionis sint, [illegible] absolvi [illegible] de sent. excommunicationis, [illegible] cap. [illegible] [33] [illegible]. = [illegible] de sent. excommunicat. = Puer, [illegible] cap. [illegible] de sent. excommunicationis. = Officialis, et Ianitor [illegible] officialis [illegible] percusserit Clericum [illegible], [illegible] absolvi [illegible] cap. [illegible] de sent. excommunicat. = [illegible] cap. [illegible] 6. [illegible] cap. [illegible] de sent. excommunicat. cap. [illegible] = [illegible] absolvi [illegible] de sent. excommunicat. [illegible] conditionis est, ut [illegible] solet, [illegible]

[illegible]

x.ª licet in cap. la novelim tit. de sent. excom. [illegible] Felinus, et Covarrubias in [illegible] lor. Navarrus, et Coll. [illegible].=

n.º 26

Deinde superest exponere 3.ᵘᵐ versum [illegible], [illegible] infirmi, et [illegible] qui absolui non [illegible] d.º cap. quod de his de sent. excommunicationis, seu quacumque alia [illegible] impotentia, seu morbo impediti, [illegible] d.º cap. la novelim, quod [illegible] per [illegible] in 4.º versu [illegible] quorum [illegible], si temporalis fuerit, debent prius absoluantur [illegible], ut post quam ad integram valetudinem [illegible] fuerint, personaliter a Sede Apostolica absolutionem postulabunt d.º cap. quamvis [illegible] de sent. excommunicationis.= Sextum, [illegible] Senectus impeditos [illegible] gaudent privilegio ut a [illegible] absolui possint d.º cap. la novelim, d.º cap. quamvis, [illegible] in [illegible] [illegible] C [illegible], et boni viri [illegible] = [illegible] Clerici qui [illegible] Collegij [illegible] sub tecto [illegible] de Collegio, [illegible] absoluuntur, [illegible] enormis [illegible] cap. [illegible] de [illegible], Covarruvias [illegible] facile [illegible] ad [illegible] L. [illegible] 77. § [illegible] ff. de leg. 2.º = [illegible] potestatem [illegible] qualis [illegible] excessus [illegible] excommunicatis, [illegible] in cap. [illegible] 27. [illegible] in duobus casibus [illegible] in [illegible] dominos, vel [illegible] grave [illegible] = [illegible] percusserit, [illegible] absoluatur, vel [illegible] de [illegible] = [illegible] ad Sedem Apostolicam, vel [illegible] absolui, [illegible] Apostolico [illegible] d.º cap. de [illegible], et d.º cap. [illegible] absoluente [illegible]

n.º 27

[illegible] absoluere, [illegible] periculo, [illegible] absolui, [illegible] cap. [illegible] cap. la novelim, cap. quod de his, cap. quamvis [illegible] de sent. excommunicationis; [illegible] periculum [illegible] infirmitatis, sed [illegible] periculo [illegible], ut si [illegible], vel per loca periculosa [illegible] absolui, [illegible] Sacerdote, vel a [illegible] absoluere [illegible] Sacerdotibus [illegible] Trid. [illegible] 24 [illegible] c. 7. [illegible] de off.º Ordinarij cap. [illegible] Covarruvias [illegible] Azor [illegible] cap. 19. [illegible] n.º [illegible] art. 9. n.º [illegible] Covarruvias [illegible] cap. [illegible] Navarrus [illegible] 45. [illegible] Molina [illegible] = [illegible] per Bullam [illegible] Clerici [illegible] a Sacerdote [illegible] periculum [illegible] Clausula dictæ Bullæ [illegible] hoc privilegio gaudeat [illegible] Bullam [illegible] Respondeo [illegible] cap. 7. [illegible] = [illegible] in Concilio Trid. sess. 24. c. 7. [illegible] Sacerdotibus [illegible] [illegible] Concilij Trid. [illegible] =

n.º 29

Ex quibus [illegible] decisiva [illegible]

Violentas manus [illegible] in Clericos, vel religiosos [illegible] [illegible]

[illegible] qui Clericos inhonorant [illegible]

[illegible] Consilium [illegible]

[illegible] qui Clericos, sacerdotes, religiosos [illegible] inhonorant [illegible]

[illegible]

[illegible] sacerdotes [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

n.º 30.

[illegible]

[illegible]

[illegible]

[illegible] Clericos vel sacerdotes [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

n.º 31.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Criminis maiestatis d. l. 1. ff. ad l. Juliæ maiestatis, d. l. 1. [illegible] sacerdotes offendens [illegible] crimen committere, [illegible] tangit, tangit pupillam oculi Dei. [illegible] quia sicut offendens Principis [illegible], vel Senatores, qui quoddammodo pars corporis [illegible] criminis læsæ maiestatis [illegible] l. quisquis 5. C. ad l. Juliam maiestatis, ita similiter qui sacerdotes vel clericos offenderit, [illegible] clericos et sacerdotes [illegible] Senatorum habere [illegible] ex [illegible] 4. §. [illegible] 96. [illegible] jubet [illegible] quod [illegible] apparet [illegible] maiestatis [illegible], ita [illegible] criminis reus [illegible] Catholica [illegible] Cervantes [illegible], ut [illegible] Hieronymus [illegible] anno 1294. [illegible] cap. 2. [illegible] sacerdotes [illegible] de Vero [illegible] cap. 48. [illegible] sacerdotes [illegible] =

n.° 32.

Sacerdotis [illegible] criminis læsæ maiestatis [illegible] Cardinalis [illegible] vel ex officio, vel [illegible] Cardinalis offendit [illegible] crimen læsæ maiestatis [illegible] clericus [illegible] sacerdotes [illegible] C. [illegible] et clericis [illegible] de Criminibus læsæ maiestatis lib. 4. [illegible] Molina [illegible] tract. 3. [illegible] = Vel [illegible] Criminis læsæ maiestatis [illegible] offensam [illegible] Criminis læsæ maiestatis [illegible] clericus [illegible] ut [illegible] Sacerdotes [illegible] cap. 5. [illegible] offensam [illegible] Clericos [illegible] sacerdotum [illegible] sicut honorare [illegible] Leviticum cap. 2. [illegible] sacerdotes offendens [illegible] ex Matthæi capite 8. [illegible] cap. [illegible] 9. 6. [illegible] Clericos [illegible] Crimine [illegible] =

n.° 33.

Dici [illegible] cap. Cum 42. [illegible] Clericos [illegible] Clericos [illegible] ut [illegible] lege vel Canone [illegible] lege vel à Canone [illegible]

Nec [illegible] = Nec [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] in Collect. ad [illegible] Decretal. Coll. [illegible] n.° 5. [illegible] =

n.° 34.

Deinde [illegible] advertitur 2.a difficultas de [illegible]

[illegible] sacrilegii [illegible] qui aufert sacrum de sacro, vel non sacrum de sacro, sive sacrum de non sacro, [illegible]

[illegible]

[illegible]

[illegible]

[illegible] = Nec [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] n.° 135. [illegible]

[illegible]

[illegible] 22. [illegible] n.° 9. [illegible] Coll. [illegible] =

n.° 35.

Rursus [illegible] 3.a difficultas [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] Coll. [illegible] 1. [illegible] 10. n.° 1. [illegible]

[illegible] 22. [illegible] 1. [illegible] 69. [illegible]

[illegible] n.° 41. [illegible]

n.° 36.

Denique [illegible] difficultas [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

tradi[illegible] ad [illegible] 9. [illegible] 6. de mense [illegible] et [illegible], [illegible] et intelligatur, quibus [illegible]
[illegible] permittere, ut [illegible] possint [illegible] ex [illegible] et [illegible]
[illegible] que [illegible]
[illegible] ex [illegible] quilibet [illegible]
[illegible] et [illegible]
[illegible]

: [illegible] quos [illegible] Bartra [illegible]
: [illegible] et [illegible]
: [illegible]
: [illegible]
: [illegible]
: [illegible]

Materia de penitenc.a

del Juram.to

[illegible] habent [illegible]

[illegible]

I [illegible]

[illegible]

[illegible]

[illegible] modo [illegible]

[illegible] ordo [illegible]

[illegible] sacerdotis [illegible]

[illegible] habent [illegible]

[illegible] ad lucem, unde [illegible]

[illegible] adorationem [illegible] Origines Homilia [illegible]

de Spiritu Sancto cap. 12. Aug. epist. 20 ad [illegible], et in [illegible] 21. [illegible] 30. [illegible]

[illegible] terris [illegible]

[illegible] et [illegible] 5 [illegible] 6. et hoc fit [illegible] Dei [illegible]

[illegible] Corporis, qui sicut [illegible], ita [illegible] venerari debet, ut [illegible]

cap. [illegible] 8. de [illegible] 2. [illegible]

[illegible] Christum [illegible] Dei, [illegible]

[illegible] Christus dicit [illegible] Angelorum [illegible]

[illegible] ad [illegible] adorandum descendere [illegible] habemus

[illegible] qui [illegible] adorent [illegible] in hoc [illegible]

[illegible] Venerab. [illegible]

[illegible] exterior et [illegible]

[illegible] quod hoc [illegible] sacrum [illegible]

[illegible] proponit, [illegible] et [illegible] publica [illegible] Concil. [illegible] General.

1a parte [illegible] Decreti, [illegible] Conciliis [illegible] cap. 40. [illegible]

[illegible] D. Thom. q. 79 [illegible] art. 2 [illegible]. [illegible]

[illegible] 17. cap. 6 [illegible].

[illegible] diversis solet nominibus [illegible], sicut ipse Deus,

qui [illegible] diversa [illegible] diversis [illegible], Deus fortis, pater [illegible]

Princeps [illegible] ut animadvertit D. Thom. [illegible] q. 13. art. 4. [illegible]

et tanquam [illegible] quae [illegible]. Ita [illegible]

[illegible] dicitur [illegible] D. Joannis [illegible] cap. [illegible]

[illegible]

Deinde [illegible] ... quam omnes sumus, [illegible]

[illegible] ... ad Corinthios [illegible]

[illegible] ... in Tullo [illegible]

[illegible]

[illegible]

... Melchisedech ... Dei sacerdos ... cap. 14 ... [illegible]

... consecrat ... [illegible]

... Exodi cap. ... Levitici cap. ... [illegible]

... Apostolus ad Hebreos cap. 7 ... [illegible]

[illegible] ... 3 ... 33 ... 73 [illegible]

N.º 10

[illegible] ... 36 ... 31 [illegible]

[illegible]

[illegible] Thomas ... 73 ... Victima ... [illegible]

[illegible] ad Hebraeos [illegible]

[illegible] de Trinitate ... 15 ... [illegible]

[illegible] cap. 28 ... [illegible] domine [illegible]

[illegible] Tertullianus ... 40 ... Marcionem cap. 40 ... cap. 42 ... [illegible]

[illegible] Origenes ... in Hieremiam ... 49 ... [illegible]

[illegible] in sanguine [illegible]

[illegible]

N.º 12

[illegible] ... 63 ... [illegible]

[illegible]

[illegible]

[illegible]

[illegible] ... Malchus ... [illegible] ... Theologorum cap. 6. ... [illegible]

[illegible] ... Synodi ... [illegible]

[illegible] ... Decretum habebat ... [illegible]

... [illegible] ... ut docent Baronius anno Christi 57. n. 76. [illegible] ... c. 9. ... [illegible]

et alii quos refert ... [illegible] ... lib. 2 cap. 51. ... [illegible]

plura [illegible]

[illegible]

[illegible] ... facere [illegible]

[illegible] ... publicato anno 1572. ... [illegible]

prohibent ... [illegible] ... qualibet dignitate [illegible]

... [illegible] ... vel contra aliquos ... [illegible] ... nec illos [illegible]

... [illegible] ... et mundos ... [illegible] ... habere, deferre [illegible]

... [illegible] ... notandum ... [illegible]

... [illegible] ... et illuminatos, ... [illegible]

... [illegible] ... Concludat ... [illegible] ... albos, et mundos, ... [illegible]

... [illegible] ... sed ut benedicantur a Patre ... [illegible]

... [illegible] ... ut ex textu patet ... [illegible]

... [illegible] ... tenere. ... denique ... [illegible]

... [illegible] ... benedictionis ... [illegible]

... [illegible]

... [illegible] ... Thomas Sanchez ... [illegible]

... [illegible] ... 4. n. 4. ... [illegible]

... [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Tractatus 2us De Sententiis Sacramenti Eucharistiae

[illegible]

[illegible]

[illegible]

[illegible] 1.

[illegible]

Suar., et Araujo, Bellarmin. [illegible] cart. 24 [illegible]

de Lobrocairo [illegible] n.º 11 [illegible]

202.

[illegible] praesentialis et Corpus, et Sanguis [illegible] Domini quatenus [illegible] sacri [illegible] qui diximus. Facile [illegible] huic difficultati occurritur [illegible] dicamus ad totale, [illegible] peccatorum requiri [illegible] sensibile, [illegible] tamen [illegible] sacri [illegible] ut [illegible] sacramenti [illegible] sensibilis [illegible], itaque Corpus, et Sanguis [illegible] sensibilia, [illegible] species. = 2.º [illegible] [illegible] Corpus [illegible] vel [illegible] Corpus, et Sanguis [illegible] tanquam pars [illegible] sacri, et [illegible] Corpus et Sanguis [illegible] 2.º consideravi [illegible] Corpus [illegible]

[illegible]

203.

[illegible] ad explicandum [illegible]

Corpus [illegible] [illegible] Itaque 1.º [illegible] Corpus [illegible] sacro [illegible] Corpus, et Sanguis [illegible]

[illegible]

[illegible]

... manducaverunt ... manna ... [illegible]

... tenuis ... inter ... [illegible]

... vere et realiter ... [illegible] ... 88 ...

... [illegible] ... Corporis ... [illegible]

... [illegible] ... convertendum. =

Denique Verba, et ... clarissima ... [illegible] ... Matthaei c. 26. ... Lucae c. 22. ... Marci cap. 14. ... Corpus meum quod pro vobis datur, tradatur, ... in ... [illegible] ... pro vobis ... [illegible] ... Paulus ... ad Corinthios cap. 11. ... [illegible] ... cap. 6. ... [illegible]

... [illegible] ... Veram, et ... credere, et manducare ... [illegible] ... de spirituali manducatione ... Corporis ... [illegible] ... vere ... [illegible] ... cap. 6. v. 27. operamini ... [illegible] ... Veram ... [illegible] ... vere, et realiter praesentia Corporis ... [illegible] ... =

[illegible] ... Scripturae ... [illegible] ... cap. ... ad Corinthios ... [illegible]

... [illegible]

Concl.

[illegible]

[illegible] Thom. doctrina [illegible] 75. art. 1. [illegible]

Similiter Docet [illegible] [illegible] et manducemus. = [illegible]

[illegible] 44. [illegible] cap. 6. [illegible] manducandi [illegible], [illegible] Sermo, [illegible] dixit, Spiritus est qui vivificat, Caro non prodest quidquam, [illegible] Spiritualiter intelligite [illegible] loquutus [illegible], in hoc Corpus [illegible] [illegible] = Sed [illegible] intendit excludere veritatem Corporis Christi, sed [illegible] manducandi [illegible] spiritualiter [illegible] cap. [illegible] 55. [illegible] et tradit [illegible] Thomas [illegible] 75. art. 1. ad 1. =

[illegible]

Accedit quia [illegible] Matthaei 26. Semper pauperes habebitis vobiscum, [illegible] Joan. cap. 16. [illegible] mundum, et vado ad patrem [illegible] cap. 17. [illegible] [illegible], ex quibus videtur aperte [illegible] Corpus Christi, [illegible] [illegible] [illegible] intelligendum est de [illegible] Corporali, et sensibili, [illegible] nobiscum [illegible], sed [illegible] de qua [illegible] Matthaei cap. [illegible] [illegible] Thomas [illegible]. [illegible] cap. [illegible] 75. [illegible] [illegible] cap. [illegible] 57. [illegible] Corpus [illegible] [illegible] =

[illegible]

[illegible] Corpus [illegible]

[illegible]

Nec omittendum [illegible] ... Quaeritur an ... demonstrari dicendo hoc est ... dicendo hoc ... substantiam propriam panis, et vini ... substantiae Corporis, et sanguinis ... accidentia panis, et vini ... substantiae, accidentia ... substantiae Corporis, et sanguinis ... substantiae panis et vini ... substantiam Corporis, et sanguinis ... panis et vini ... ut docent ... Vasquez disp. ... cap. ... ad 3. 75 ...

... articulo ... qui ... proponit ... panis ... Corporis, et sanguinis Domini ... nemo post ... hostiam ... numero ... Sacerdos ... cap. 49. de Consecratione dist. ... ut Sacerdotes ... celebrent ... cap. ... 4. 1. ... cap. 41. de Consecratione ...

[illegible]

[illegible]

n. 23. [illegible] ... ut [illegible] excaptº [illegible] ... Trid. [illegible] ... Bellarm. [illegible] ... corpus et sanguis [illegible] ... corpus [illegible] ... Verum [illegible]

n. 24. [illegible]

De transubstantiatione [illegible] ... Catholica [illegible] ... Trid. [illegible] ... 1215 [illegible] ... transubstantiatio [illegible] ... D. Thomas [illegible] ... Calvinus [illegible]

Denique [illegible] 44 [illegible]

[illegible]

[illegible] De qualitate [illegible]

[illegible]

[illegible]

[illegible]

... authores docent. =

Nostra ... [illegible]

Ad 11

Consideratione ... [illegible] ... colore ... [illegible]

... forma Corporis Christi ... [illegible]

... [illegible] ...

Missa ... [illegible] ... Sacra ... [illegible]

Sacerdote nomine ... [illegible]

... [illegible] ...

... [illegible] ... spiritualis refect ... [illegible]

... [illegible] ...

... Pontificibus, et ... Patribus appellantibus ... [illegible]

... [illegible] ... Decreto ... [illegible]

... [illegible] ...

... [illegible] ... Catholici ... [illegible] =

... [illegible] ...

... [illegible] ... universalis ... [illegible]

... [illegible] ...

... [illegible] ... S. Thomas ... [illegible]

... [illegible] ...

[illegible]

[illegible]

[illegible]

Dico 1° [illegible] Ut qualis it necessi[illegible] [illegible] [illegible] [illegible] [illegible] necess[illegible] [illegible] [illegible] [illegible] necessitate [illegible] [illegible] [illegible] necess[illegible] [illegible] [illegible] habitualis necess[illegible] [illegible] [illegible] [illegible] Dominicus Soto [illegible] q. 4. art. 7. [illegible] art. 3. [illegible] q. 73. art. 5. [illegible] de necessitate, [illegible] [illegible] [illegible] cap. 22. [illegible] cap. 11. [illegible] D. Thomas 3. p. q. [illegible] art. 10 [illegible] [illegible] [illegible] [illegible] [illegible]

Dico 2° [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] peccati mortalis [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

De Eucharistia.

[illegible] potest ad remissionem [illegible] peccati [illegible] authores [illegible] =

2° [illegible]

[illegible] infantibus necessaria [illegible] necessitate medii [illegible] ex Trid. [illegible] cap. 4. et can. 4. [illegible] cap. 5. [illegible] peccatorum [illegible]

[illegible]

4°

[illegible] Eucharistia [illegible] necessaria ad [illegible] vitae spiritualis [illegible] necessitate medii [illegible]

[illegible] Facile tamen [illegible] difficultati [illegible] respondetur [illegible] calor [illegible] vita spiritualis [illegible] habitualis [illegible] peccat. mort. [illegible] Eucharistia [illegible] necessaria ad spiritualem vitam [illegible] =

2° [illegible]

[illegible] difficultas [illegible] Eucharistia [illegible] Trid. [illegible] Salvari [illegible] sacramentum [illegible] parvulos [illegible] baptismo [illegible] Trid. [illegible] cap. 4. [illegible] =

[illegible]

pueris [illegible] adultos vel infantes [illegible] sine hoc sacro [illegible]
[illegible] quod nos negamus [illegible] doctrinam [illegible] art. 3. = Nec [illegible]
Innocentij authoritatem quia licet [illegible] parte [illegible]
necessitate [illegible] affirmantibus [illegible] ut [illegible] ex traditis a [illegible]
de Euch. q. 7. [illegible] Innocentius loqui de [illegible]
[illegible] debere [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] in remissionem [illegible]

n. 7.

Sit 3a. et ult. difficultas [illegible] proveniens ex [illegible]
[illegible] nisi manducaveritis carnem [illegible] habebitis vitam in vobis, [illegible]
comprehendere tam adultos quam parvulos, et indicare nullum sine Euch. [illegible] suscepta salvum [illegible]
qui [illegible] debaptismo dicitur [illegible] nisi quis renatus fuerit ex aqua, et spiritu
sancto non potest introire in regnum Cæli, [illegible] apud Lucam cap. [illegible]
similibus verbis, [illegible] quemadmodum [illegible] duo sacra baptismus [illegible] necc. [illegible]
tamquam medium ad [illegible] gratiam adquirendam, ut [illegible] dominum [illegible] similiter Euch. [illegible] necc. necc.
medij [illegible] Joannis [illegible] doctrina [illegible] proposita. = Huic difficultati [illegible] Resp.
dicendo [illegible] esse intelligenda [illegible] ad adquirendam gratiam [illegible]
[illegible] sed illam retinendam, et conservandam, ut [illegible] non habebit vitam in vobis, [illegible]
[illegible] cap. [illegible] 15. [illegible] dicitur omnis homicida non habet vitam æternam in se manentem
[illegible] peccatum homicidij. [illegible] quoad [illegible] dicimus [illegible]
Joannis [illegible] nisi manducaveritis [illegible] oportere [illegible]
necesse esse [illegible] vel in voto, [illegible] Concilium [illegible]
[illegible] Joannis [illegible]
baptismum [illegible] spiritus. =

n. 8.

Quod [illegible] ex [illegible] doctrina [illegible] Euch. [illegible]
[illegible] ad fidem [illegible] D. Thom. [illegible] art. 3. [illegible]
hoc sacramentum necc. esse [illegible] baptismi, [illegible] D. Thomæ [illegible] sacrum
baptismi esse magis necc. quam Euch. [illegible] necc. necessitate medij,
[illegible] baptismus sit necc. in genere causæ efficientis, Euch. autem in genere causæ finalis, et [illegible]
[illegible] Euch. autem in voto, [illegible] præcepto divino [illegible]
[illegible] modo. [illegible] in [illegible] q. 65.
[illegible] necc. necessitate [illegible] baptismus [illegible]
[illegible] debet accipi de necessitate in genere causæ efficientis, [illegible] de necessitate [illegible] finalis, [illegible]
[illegible] in 4. dist. 9. q. 1. art. 3. [illegible] q. 3. et 4. [illegible]
[illegible] =

n. 9.

[illegible] Euch. in [illegible] esse medium necc. ad [illegible]
[illegible] remedium peccatorum, [illegible] peccatum [illegible] et baptismus [illegible] ad Euch. [illegible]
[illegible] et ad [illegible] sacramenta ordinantur tamquam [illegible]
[illegible] suo tempore [illegible]

... vult medium aliquod ordinatum ad aliquem finem ... habet voluntatem voti ... desiderium ...
... medium intentum ... D. Thom. ... art. ...
... habebitur votum euch. ... art. ... art. ...
... et ... votum ...

... vota ... baptismi ... Eucharistiae ... D. Thomas ... baptismo ... voto ...
... ad quem remittitur ... baptismus ... votum ...
... Eucharistiae ... Trident. ... sess. ...
... votum ... Eucharistiae ... in suscep. baptismi ...
... baptismo ... ad finem ... spiritualis ... Eucharistiae ... confirmatio ...
Eucharistiam, ita docet D. Thomas 3. p. q. 73. art. ... ad 2. ... 4. ... sacro
... asserit 3. ... tract. ... de Euch. ... et alii quos refert ...
... disp. 41. sect. 5. ...

art. 11.

Verum tamen ... de voto baptismi loquens ... difficultas, quae ex eo provenire videtur, quia votum Eucharistiae est ... necessarium homini ad ...
... justificationem, neque enim parvuli desideraretur, ... quidem ... parvuli ...
... quod non habent libertatem et voluntatem ... possunt habere votum ... desiderium liberum Eucharistiae, et tamen
justificantur ... baptismi, ... votum Eucharistiae ... necessarium ...
... difficultas ... dicamus ... in adultis
... parvulis desiderium Eucharistiae votum, at in parvulis licet ... votum, datur tamen
... votum ... desiderium ... ut parvuli baptizentur, habet interpretativam
voluntatem, quod parvuli suo tempore suscipiant Eucharistiam, quae est finis baptismi, ... quia intendit
quod alter ... medium in ordine ad aliquem finem, vult ut ille talem finem ... in illo
medio intentum, ut docet D. Thomas 3. p. q. 73. art. 3. ad 2 ... in summa ...
... cap. ...

n. 12

... dicendo votum esse ... parvulis ...
... baptismum ... votum Eucharistiae ...
... respondendum ... affirmando quod ... baptismum
... membra ... aliquando ... baptismum ... voto ... ecclesiae
... baptismum in re, quia ... in re ... suscipiant ... votum
... baptismum ... in voto ... salvandi ...
... Deo ... ut docent ... alii ...
... disp. ... cap. ...

[illegible] articulo [illegible] articulo [illegible]

art. 13

[illegible] ut de [illegible] Eucharistiae [illegible] admirabile [illegible]

[illegible] Concilii Tridentini [illegible]

[illegible] quotquot [illegible] hoc [illegible] admirabile Sacramentum [illegible]

[illegible] Tridentini [illegible] Thomas Sanchez [illegible] de matrimonio [illegible]

art. 14

[illegible] hoc Sacramentum [illegible] per modum cibi [illegible] spiritualiter [illegible] et reficitur [illegible] cap. 44 de Consecratione [illegible] religiose et venerabiliter [illegible] voluit hoc Sacramentum [illegible] tanquam spirituale animarum cibum [illegible] spiritualiter [illegible] Concilium Tridentinum sess. 13 cap. [illegible] quanto maiori [illegible] debemus [illegible]

ut allegamus Clemens 57 in Concilio Viennensi [illegible] devotius et venerabilius [illegible] in Sanctis laudare debemus, dignum profecto, [illegible] et salutare nobis est, ut [illegible] spiritualiter [illegible] memoriam Corporis Christi [illegible] festivis [illegible] de festo Corporis Christi [illegible] cap. 27 [illegible] alii plures quos refert [illegible]

: Sa. de Cappellaniis lib. 1 cap. 24 [illegible] :

: hic videntur sufficiant de hoc art. :

:

Articulus quintus De materia

: [illegible] Eucharistiae ad [illegible] cap. in Sacra 5 cap. [illegible] 7 cap. :

: [illegible] in Concilio [illegible] de Consecratione :

: Distinctio [illegible] :

Huius Sacramenti Eucharistiae duplex est materia, alia proxima, alia remota [illegible] Sacramentum [illegible] Tridentini sess. 13 cap. 4 [illegible]

[illegible] [illegible] de materia [illegible] Concilio Lateranensi [illegible] Catholica [illegible] Concilio Tridentino sess. 13 cap. 4 [illegible]

Margin: [illegible] et vini.

De Missa [illegible]

[illegible] Canon [illegible] ex facto [illegible] Vinum [illegible] Concilium [illegible] Constitutionibus [illegible] de Sacrificio [illegible]

[illegible] Vinum [illegible] Valentia [illegible] de Graffiis [illegible] tractatu de [illegible]

Dubium ... solvitur

[illegible] Vinum [illegible] in [illegible] sanguinem [illegible] Christi [illegible] Vini [illegible] ut docet D. Cyprianus epist. 63 [illegible] Valentia t. 4 [illegible] de Graffiis [illegible] fundamentum [illegible] =

[illegible] aliquis [illegible] sufficiens [illegible]

Ad 3.

[illegible] Corporis [illegible] Vinum [illegible] Lucae cap. 22, et Marci cap. 14 [illegible] significationi [illegible] Pauli 1 ad Corinthios cap. 11 [illegible] Scriptura [illegible] Corpore, atque ideo separatim offerri debet [illegible] ut docet D. Thomas super 1 ad Corinthios cap. 11. = [illegible] atque ideo [illegible] 4 [illegible] cap. 1 et 3 [illegible] cap. 1 [illegible] Valentia t. 1 [illegible] aliorum haereticorum [illegible] =

Intel... Apostolorum.

Ad 4.

[illegible] Canon [illegible] Apostolorum [illegible] aut mel, aut lac, aut pro vino siceram, aut [illegible] aut [illegible] aut animalia aliqua, aut legumina [illegible] cap. 4 [illegible] Apostolo [illegible] offerri licere ad altare [illegible] Sacrificium [illegible]

oleum

[illegible] ... [illegible]

[illegible] ... Ex dictis provenit ad [illegible] ...

[illegible] ... Sacerdotum ... [illegible] ... ut notat D. Bernardus ... [illegible] Patres ... [illegible] ... Trid. sess. 13. cap. 3. et 4 ... [illegible]

docet Autem [illegible] Consecratum esse Corpus et Sanguinem Christi sub speciebus panis et vini ... [illegible] ... Corpus Christi, et Consecratum vini Sanguinem ... [illegible] ... Suarez ... disp. 43. sect. 2. ... [illegible]

n. 6.

Nunc venit decidenda difficultas: utrum [illegible] necessitas conservandi utramque speciem proveniat ex praecepto divino an ex humano vel ecclesiastico. In quo dubio [illegible] ... praecepto divino ... separandi unam speciem ab altera, quod probatur ex Trid. sess. 13. ... Dominus noster ... corpus et sanguinem suum sub speciebus panis et vini ... Apostolis, quos tunc novi Testamenti Sacerdotes constituebat, tradidisse, ut sumerent, ... eorumque in sacerdotio successoribus ut offerrent praecepisse per haec verba, hoc facite in meam commemorationem ... [illegible] ... sicut ipse fecit. Sed hoc ... utramque ... [illegible] ... sed tantum adhuc ut in utraque specie offerrent sacrificium. Quod confirmatur ... [illegible] ... Probatur ... [illegible] ... offerendo ... [illegible] ... Christus Dominus noster ... hoc quotiescumque feceritis in meam memoriam facietis ... [illegible] ... hostiam, et calicem offerretis ... [illegible] ... Sacrificium ... [illegible] ... necessitatem ... utramque ... divino. ... tradit ... S. Thomas ... Suarez ... [illegible] ... disp. 43. ... [illegible]

n. 7.

Dicimus ... [illegible] ... necessitas conservandi utramque speciem ... [illegible] ... Romanus Pontifex ... [illegible] ... sess. 13. ... [illegible] ... [illegible]

(marginal notes) necessitas conservandi utramque ... praecepto divino. — [illegible]

[illegible] ... solum [illegible] [illegible] ... Sacerd. [illegible]

[illegible]

... speciali providentia = [illegible] ... Thomas Sanchez [illegible] ... 24 ... Fernand. ... [illegible]

Sacerdos, namque Concilium Tridentinum decernit ... [illegible] ... Sacerdos ... [illegible] ... sacerdotem ... [illegible] ... specifica ... [illegible]

[illegible] ... Bonacina ... [illegible] =

[illegible] ... excepta ... [illegible] ... benedixisse ... [illegible] ... Hinc difficultatem ... [illegible]

... in Castello ... [illegible] ... Nec ... [illegible] ... Venetiis ... [illegible] ... sacramentum ... [illegible] = ... denique ... [illegible]

... Sacramentum ... [illegible] =

[illegible] ... quod licet ... [illegible] ... Sacerdoti ... [illegible]

... peccaret mortaliter ... [illegible]

... cap. ... [illegible] ... 11 ... 3 cap. ... 4 cap. ... 25 ... [illegible]

[illegible]

[illegible]

n. 11

[illegible] ... de consecratione ... [illegible] ... Matthaei cap. 6 ... [illegible]

... 47 ... triticeus esse debet, ita tradunt ... [illegible] ... Toletus, et alii quos refert ... cap. ... disp. 44 ... [illegible] ... Bonacina ... [illegible] ... sequitur Auctore ... [illegible] ... cap. 1 n. 3. cum pluribus ... [illegible]

n. 12

[illegible] ... ex quo ... aut vocantur, quae producuntur ... spica, ut ... [illegible] ... vel ... Confessor ... [illegible] ... producto, nisi sit triticeus aut ... tritici, siquae ex ordeo, milio, vel ... [illegible] ... Cum ... [illegible] ... nisi ob defectum tritici ... [illegible] ... vocabulis panis habere ... [illegible] ... aquarum ... per modum ... [illegible] ... in furno, aut ... aut similitudine, alioquin ... proprie dicerentur panis ... [illegible] ... vel alio simili ... [illegible] ... dicitur panis ... [illegible] ... nomine mutato ... sapore, odore ... [illegible] ... similiter ... panis triticeus ... corruptus sit ... [illegible] ... farina ... admisceatur ... farina ... [illegible] ... sufficiens ... ut tradit D. Thomas q. 74 art. 3. ... [illegible]

n. 13

... triticeus ... fermentatus ... [illegible] ... ex ... [illegible] ... vino ... [illegible]

De calice

[illegible]

[illegible]

n.º 15

[illegible] ... de vino ... ad consecrationem sanguinis, ... hoc vinum debere esse de fructu vitis expresse ut definitum est in Concilio Florentino in decreto unionis ... et in Concilio Lateranensi ... cap. Firmiter ... Tridentinum ... cap. ... de consecratione ... et post ... tradit Catechismus Pii 5.º ... cap. 4 § 4. ... Sacramentum ... vinum de vite ... et Corinthiorum cap. 22 ... Mathei, et Marci cap. 14 ... appareat ... Christum Dominum ... vitis ... memorabili ... Concilium Aurelianense ... cap. 4 ... vinum ... ex fructu vitis nascitur ... artificiale ... sufficeret ad consecrationem ... Thomam ... q. 64 ...

n.º 16.

[illegible] ... vinum ... ex fructu ... Aristoteles ... cap. 6 ...

[illegible] ... et Vina ... [illegible] ... hae ... vinum [illegible]

[illegible] ... vinum a [illegible] ... in Vino ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... sed Vino ... [illegible]

[illegible] ... [illegible]

Duplex dubium quoad substantiam

n.o 17

Neque obstat resolutioni quidquam ... [illegible] ... vinum, nec quia ad vinum factus pervenerit, quia sufficere ad conficiendum ... [illegible] ... licet ... [illegible] ... vivatur, ... [illegible] ... simpliciter ... [illegible] ... satis ad ... huius ... Deinde quia imperfectio, et impuritas quam habet mixtum ... [illegible] ... quin valide ... [illegible] ... ergo ... peccat ... sufficere ... necessitate. = Nec magis ... dicat ... [illegible] ... naturas ... sufficere ad valida ... [illegible] ... de consecratione ... recentes ... [illegible] ... Claudio, nam ... [illegible] ... Vinum ... [illegible] ... in Vino, nec ... [illegible] ... sed permodicum ... [illegible] ... Calix, vel hic a sanguine, ... [illegible] ... Vinum, aut ... [illegible] ... Sacerdotis ... [illegible] ... in Vase ... [illegible] ... ab Vino ... [illegible] ... sensibile, ... [illegible] ... licet ... [illegible] ... vel oculis ... [illegible] ... refert ... [illegible] ... cap. 3. n.o 5 ... [illegible]. =

n.o 18

Deinde in ... Vinum ... [illegible] ... Compelatus ... [illegible] ... sufficere, ... [illegible] ... licite, nec absque peccato, ... Vinum ... [illegible] ... secundo ... [illegible] ... licet ... [illegible] ... Corrumpitur, ... [illegible] ... Vinum ... consecratus ... [illegible] ... ut expresse ... in Missali Romano, ubi dicitur ... [illegible] ... in Calice Vinum ... [illegible] ... Sacerdos ... [illegible] ... [illegible] ... Vino ... Sacerdos ... [illegible] ... Nec huic ... [illegible] ... Vale ... [illegible] ... baptismum, ... [illegible] ... sed ... [illegible] ... [illegible] ... [illegible] ... [illegible]. =

n.o 19

Hac ... [illegible] ... affirmant Sacerdotem ... [illegible] ... Vinum ... [illegible]

[illegible] ... non Sacerdos.

Dicebis [illegible] plurimos [illegible] Ecclesiae [illegible] mortaliter. [illegible] ultra modum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacerd. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Corpus, vel hic calix [illegible] [illegible] requiritur, [illegible] similiter [illegible], atque [illegible] sacerdos [illegible] potest [illegible] [illegible] [illegible] valide [illegible] [illegible] si [illegible] [illegible] nec panis, sed [illegible] sit, si sacerdos [illegible] [illegible] nec est panna [illegible] [illegible] mente, adhuc [illegible] [illegible] nec humano modo, nec deinde [illegible] valet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] distante valide [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Communionis [illegible] [illegible] contrario, qui [illegible] sacerd. docent Thomas [illegible] [illegible] [illegible] [illegible] [illegible] Epidius, alij [illegible] [illegible] Bonacina [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] significatio, [illegible] [illegible] forma verborum ipsam [illegible] [illegible], nec [illegible] [illegible] [illegible] habeat, quippe [illegible] dicitur [illegible] [illegible] aliquos externos percipitur [illegible] [illegible] [illegible] [illegible] panis quia [illegible] si sacerdos Communionis [illegible], aut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] oculis habetur, et videtur, [illegible] [illegible] oculis ponatur [illegible] [illegible] sacerdoti, quamvis [illegible] a sacerdote [illegible] videatur. [illegible] sacerdos [illegible], [illegible] [illegible] celebrat [illegible] valide, [illegible] consecrare panem proxime [illegible] licet [illegible] [illegible] videat, quia [illegible] [illegible] videat [illegible] [illegible] [illegible] [illegible] [illegible], et [illegible] [illegible] ut [illegible] [illegible] [illegible] liberet [illegible] potest sacerdos formulas, et particulas quas [illegible] [illegible] [illegible] [illegible] aut [illegible] [illegible] occultatas consecrare, et vinum in calice cooperto [illegible] aut [illegible] [illegible] [illegible] [illegible] Romano Pij [illegible] [illegible] [illegible], [illegible] vini [illegible] consecratur [illegible] [illegible] [illegible] [illegible], ut [illegible] [illegible] [illegible] [illegible] [illegible] affirmant [illegible] [illegible] [illegible] [illegible] sacerdos [illegible] consecrare, [illegible] materiam aliquam [illegible] [illegible] [illegible] [illegible] considerata [illegible] [illegible] resolutiones [illegible] [illegible] consecrari [illegible]

Vita [illegible] [illegible], [illegible]

[illegible] gloriam [illegible]:

Tractatus Sextus de M[illegible]

[illegible] Vini ad Consecrat. ~~Calic.~~ [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] celebratione

Missarum

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], probatur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Missarum, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 27.

[illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]

[illegible]

... lib. 4. [illegible] cap. [illegible] [illegible]

[illegible]

... dist. 176. cap. 2. n. 11. =

[illegible] ... Concilio Tridentino ... cap. 19. ...

aquam minori quantitate admisceri debeat, quia ... [illegible]

... a sacerdote in mixtione, ... [illegible]

... per ... [illegible]

... significantur ... [illegible]

... in rationali divinorum lib. 4. cap. [illegible] = ... mixtionis aquae ... [illegible]

... declaretur, aut signi... [illegible]

... 4. de consecratione ... [illegible] ... art. 6 ... [illegible]

... lib. 4. ... cap. 6. ... n. 19. Determinus ... lib. 4. ... [illegible] ... mixtionis aquae

... dist. 45. ... dico 2. ... [illegible]

... [illegible] ... declinantes ...

... dicebant aquam ... in calice ... [illegible]

... [illegible] ... n. 9. ... =

An mixtio aquae sit de necessitate sacramenti.

[illegible] ... mixtio aquae cum vino facienda ... ex necessitate sacri, an ex necessitate praecepti. ... alia ... docet de necessitate sacri ... esse mixtionem aquae ... vinum consecratum valere sine aqua ... necessitate ... hanc ... sententiam ... amplectimur ... 22 ... et ... quia ... indicant ... huius sacri ... aquae, et ... quoniam aqua ... consecrationis ... debet ... ut ... , ... aqua ... necessitate sacri. ... significat ... ad unionem ... cum Christo, sed ... sacri ... pertinet ad ... sacri ... mixtio ... de necessitate sacri. ... art. 2 ... in 4 ... dist. 11. ... cap. 2. ... lib. 2. cap. 4. ... de ... aqua ... n. 26 et 29. Toletus ... [illegible]

... [illegible] ...

... [illegible] ... =

De Eucharistia.

An praeceptum mixtionis [illegible] [illegible]

§. 1.

Caeterum praeceptum hoc an sit divinum, an humanum, viget in controversia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quaerentibus [illegible] [illegible] [illegible] [illegible] cap. 12. q. 4. existimarunt praeceptum hoc esse divinum, [illegible] [illegible] [illegible] aquam [illegible] aquae cum vino [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et ex Concilio [illegible] [illegible] cap. 4. [illegible] [illegible] cap. [illegible] absolute vocat, nec [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] Communes autem [illegible] referente Bonacina [illegible] [illegible] mixtionis praeceptum [illegible] [illegible] [illegible] [illegible] [illegible] Tridentinum [illegible] 22. cap. 7. expresse monet, [illegible] [illegible] [illegible] [illegible]. [illegible] [illegible] verbo utitur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] videt [illegible] [illegible] [illegible] praeceptum, sed [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] praeceptum. [illegible] [illegible] [illegible] praeceptum divinum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] necessarium [illegible] aquam [illegible] mixtio, [illegible] [illegible] [illegible] [illegible] quidquid ex [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] necessitate sacramenti, [illegible] [illegible], [illegible] authores [illegible] =

n.º 5.

[illegible] praeceptum [illegible]

Hac [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aquam [illegible] vino miscuerit, [illegible] [illegible] mixtione praeceptum reliquit, sicut nec [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut [illegible] imitatione aquam vino miscere praeciperet. = [illegible] [illegible] [illegible] [illegible] [illegible] Concilium Carthaginense [illegible] [illegible] [illegible], et Concilium Africanum cap. 4. testantur [illegible] [illegible] [illegible] [illegible]. Sancti Patres nos docuere Christum Dominum ita fecisse, et in calicem aquam [illegible], cuius exemplo [illegible] [illegible] Ecclesiastica [illegible] [illegible], et [illegible] [illegible] = Denique [illegible] [illegible] modo accipiendum [illegible] [illegible] Aurelianense, et Sanctus Cyprianus [illegible] [illegible] hoc mandatum [illegible] [illegible] divinum, quippe [illegible] [illegible] Ambrosius in proemio Libri de Spiritu Sancto [illegible] [illegible] [illegible] [illegible] mandatum, [illegible] [illegible] imitatione ita facere conveniens sit, ex quo sequitur praeceptum hoc [illegible] [illegible] [illegible] relaxari [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], adeo ut [illegible] [illegible] [illegible] faciens mortaliter peccet [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] de celebratione missarum, [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] cap. [illegible] de [illegible] et [illegible], [illegible] [illegible] [illegible] in Candelabro [illegible] de Eucharistia cap. [illegible] 9. Azor, Layman, [illegible] [illegible] refert et sequitur Bonacina [illegible] [illegible] 4. [illegible] 2. ubi [illegible] [illegible] de [illegible] persona [illegible] [illegible] [illegible] sacerdoti [illegible] [illegible] celebrandi [illegible] mixtione [illegible] [illegible] =

n.º 6.

Qualitate aquae mixtae et tempore

Hinc proponendi [illegible] [illegible] qualitates, et circumstantiae [illegible] [illegible] [illegible] aquae [illegible] sit facienda. Sit 1.º [illegible] aquam debet esse naturalis et elementalis, [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] ex [illegible] [illegible], [illegible] aquam naturalem miscuit [illegible] [illegible], [illegible] [illegible] aquae, [illegible] [illegible] [illegible] fuit vera, [illegible] ut [illegible] in cap. [illegible] [illegible] [illegible] [illegible] de celebratione missarum. = [illegible] [illegible] [illegible] [illegible] quantitate [illegible] [illegible] [illegible] ad quantitatem vini, [illegible] [illegible] [illegible] aquae quantitatem cap. [illegible] 13. de celebratione missarum, neque vinum corrumpat, [illegible] [illegible] [illegible], atque [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aquae, quam vini quantitatem [illegible] [illegible] [illegible] [illegible] [illegible] aquae quantitatem [illegible] [illegible], sed multo minor = [illegible] circumstantia [illegible] [illegible] [illegible] mixtio [illegible] fiat tempore sacrificii missae, [illegible] [illegible] celebratione [illegible] Tridentinum [illegible] 22 cap. 7. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] mixtionem fieri domi, [illegible] cap. [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible], et malitia omittens peccat mortaliter si autem ex negligentia accedat, [illegible] [illegible] [illegible] [illegible], debet [illegible] [illegible], [illegible] [illegible] [illegible] consecratio, omittenda est mixtio, [illegible] [illegible] praeceptum, et tempus praecepti, [illegible] [illegible] [illegible] = 4 [illegible] [illegible] [illegible] mixtionem facere [illegible] [illegible] [illegible] [illegible] sanguine [illegible] [illegible], [illegible] [illegible] [illegible] observatur, [illegible]

[illegible]

[illegible] Romanus, [illegible] aquam [illegible] sacerdote [illegible] ut [illegible], tradit Toletus in summa [illegible] §. quartum. =

n. 7 Conuertitur aqua in sanguinem

[illegible] cum [illegible] miscetur, [illegible] permanet [illegible] conuertitur [illegible] mediate, [illegible] immediate. = [illegible] aquam cum vino in sanguinem Christi [illegible], quod probabur [illegible] cap. [illegible] [illegible] aquam immediate in sanguinem Christi conuerti, [illegible] Toletus cap. 13. n. 4. [illegible] de sacris q. 74. art. 8. [illegible] de [illegible] vino [illegible] alij plures. [illegible] probat, [illegible] habet aquam cum vino in sanguinem Christi transmutari, [illegible] conuerti aquam [illegible] in sanguinem Christi, videlicet [illegible] aqua [illegible] ta. quod [illegible] aperte ostendit [illegible] cap. [illegible] de [illegible] ubi [illegible] [illegible] vino, et aquam [illegible] in [illegible] immediate [illegible] conuertatur [illegible] vino, sed [illegible] dico, quod [illegible] =

n. 8 In hoc [illegible] aliud [illegible] fundamentum [illegible]

[illegible] ut [illegible] consecrationis [illegible] vini [illegible], nam [illegible] aqua [illegible] modicissima [illegible], cum vini quantitas [illegible] parua [illegible] tam breui tempore in suam substantiam [illegible], [illegible] Concilij Tridentini [illegible] praeceptum erat ut [illegible] aqua vino consecrando misceretur, et non diu [illegible], ut [illegible], quod [illegible] de [illegible] fuisse [illegible] vini appositum, et ideo nec factum consecratum, [illegible] vinum aqua mixtum in calicem, [illegible] consecratur, [illegible] tam breui tempore [illegible] aquam conuerti [illegible], quemadmodum [illegible] fuisse [illegible] quod [illegible] consecrauit, [illegible] ~~illud [illegible]~~ [illegible] atque dominus admiscuit vinum cum aqua, distribuit inter [illegible] [illegible] sicut solet in [illegible], ubi [illegible] miscebatur [illegible], [illegible] quod vinum illud [illegible] [illegible] aqua cum [illegible], et apostoli [illegible], [illegible] quod in [illegible] sacratus calicis aqua [illegible] immediate in sanguinem Christi, vel quod vere aqua post consecrationem [illegible] calice [illegible] absurdum [illegible] [illegible] esse multipliciter. 1. quod [illegible] [illegible] [illegible] §. [illegible], ubi talem dicendi modum [illegible] tanquam minus probabilem. 2. quod [illegible] [illegible] in calice pro Deo vero, ergo [illegible] illud [illegible] ad [illegible] [illegible] [illegible], quod absurdum est [illegible] creaturam [illegible] aquam [illegible] in sanguinem [illegible] creatione [illegible]

n. 9 [illegible] absurditas, [illegible] fundamentum [illegible], absurditas [illegible]

Sacerdotes [illegible] dictis [illegible], [illegible] domini [illegible], nec [illegible] [illegible] dictis [illegible] dicere, [illegible] absurda [illegible] fatendum [illegible] aquam [illegible] in sanguinem Christi [illegible] fundamentum [illegible], quod [illegible] facta [illegible] aqua, [illegible] substantialiter in [illegible] vinum [illegible], [illegible] illud [illegible] vinum [illegible], et [illegible] in calice [illegible] [illegible] quod [illegible] consecrationem, et sacerdos [illegible] nomine, et persona Christi [illegible], [illegible] calicem sanguinis mei, [illegible] quod in calice [illegible] verum Christi sanguinem, [illegible] aquam [illegible] transmutetur in sanguinem [illegible] sacerdos [illegible] [illegible] significat [illegible], [illegible] significaret [illegible] [illegible] Paulus [illegible] de [illegible] [illegible] [illegible] propriae [illegible], [illegible] [illegible] =

[illegible]

n.° 10

Altera 88a est qui negat aquam in sanguinem Xρi immediate converti, sed mediante vino ... Thomas ... 4 dist. 11 q. 2 art. 4 ... Suarez ... tom. 3 ... moral. lib. 10 cap. 10 ... Cornejus ... disp. 4 ...

... adducit 1° et 3° ... a ... ut ... qui habet aquam cum vino transire in ... , et ... sed ... prius in vinum, ut constat ... aquam transsubstantiaribi ... Concilij ... Romanus ... 4. § 16. ubi ... aqua cum vino ... sanguinem Xρi ... substantia ... probabiliorem ... appellamus ... in sanguinem Xρi. =

n.° 14.

Alia duo ... fundamenta ... quia sacri Canones ... aquam cum vino in calice miscendam ... in sanguinem ... ex Concilio ... Florentino ... decreto de sacris, ... aquam ... in vinum ... nec transsubstantiandam ... = ... aqua cum vino ... Ecclesiastico ut ... aqua nullo modo ... sacrificij ... in sanguinem Xρi ... Concilio Florentino ... aquam ... in vinum ... transsubstantiari in sanguinem ... nec ... permixtas de ... aque ...

n.° 12

... fundamentis ... ad ... aquam ... in vinum converti, et postea in sanguinem Xρi, ut patet ... aquam ... sicuti aliud est ... sanguinem Xρi ... Capitulo 4 ... aqua in ... sanguinem Xρi ... Cardinalis ... anno Xρi 1188 ... Romanam ... aquam ... vino transsubstantiari in sanguinem Xρi ... = ... Concilij ... aquam ...

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

Nec mari[illegible] [illegible] ...

[illegible] ... et Concil[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... ut [illegible] ... [illegible]

[illegible] ... fundatur. = Nec est [illegible] ... [illegible]

[illegible] ... [illegible] Synodo provinciali celebrata anno Xpi 95 ... [illegible]

[illegible] ... [illegible]

[illegible] ... Generali [illegible] Florentino [illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

vit ... [illegible] ... sed [illegible] Veronensi [illegible] qd docet [illegible]

[illegible] ... et aquam in [illegible] ... [illegible]

[illegible] ... in Vini[illegible] ... vel aquae [illegible] ... [illegible]

[illegible] =

Quidque ad [illegible] ... [illegible]

n.° 4

[illegible] ... nec [illegible] ... [illegible]

Vini Consecratio permaneat [illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... Oleum, aut Balsamum, [illegible] ... in Calice, ita nec [illegible]

Tamquam [illegible] ... fideles [illegible] adorant in Calice quidquid Consecrat[illegible]

[illegible] ... ut [illegible] docet Fagundez [illegible] ... [illegible]

Sacerdotes [illegible] ... post Calicis sumpt[illegible] atque [illegible] dicere [illegible], quia [illegible] aquam [illegible]

[illegible] in Vini conversione [illegible] ... [illegible] Sacerdotes [illegible]

[illegible] ... et ideo [illegible] ... [illegible] Celebrati[illegible] ... Volunt [illegible]

[illegible] Sacerdotes [illegible] ... Consecrare, [illegible] ... [illegible]

[illegible] ... [illegible] Sacerdos [illegible]

[illegible] ... [illegible] Sacerdos [illegible] ... [illegible]

[illegible] ... Volunt ut hic [illegible] ... [illegible]

Vino Consecrando [illegible] ... [illegible]

[illegible] ... ut docet [illegible] ... [illegible]

n.° [illegible]

Denique [illegible] ... [illegible]

[illegible] ... Sacerdos [illegible] ... [illegible]

[illegible] ... in Calice [illegible] ... Sacerdos [illegible] ... [illegible]

[illegible] ... [illegible]

illud [illegible] ... [illegible] Vini, [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible] a quo illa [illegible]

[illegible]

De Eucharistia

[illegible]

[illegible] de Forma [illegible]

[illegible]

[illegible] quod hujus [illegible] quae forma, et quibus verbis [illegible] Verbis [illegible] alii [illegible] Corpus [illegible] Verba [illegible] [illegible]

[illegible]

Quae [illegible] Ambrosius lib. 4. de Sacr. cap. 4. [illegible] Corpus [illegible] Cyprianus, Tertullianus [illegible] [illegible]

[illegible] apostoli [illegible] Missalis Romani [illegible] [illegible]

[illegible]

Consecrat[illegible] ... Scotus, Tho. ... Vasquez ... de Euch. cap. ... Bonacina ... 4 q. ...

Suarez in tertiam p. ... Lugo ... cap. ... cum sequentibus. =

Ad 4.

Deinde doctores oppositi ... Eucharistiae ... forma ... de consecr. dist. 2 ... quatenus docetur ... Sacerdos visibile ...

... Corpus ... dicens accipite et manducate, hoc est Corpus meum ... Videtur affirm ... pertinere ad formam sacr. ... a doctoribus ... pronuntiari. = Eo ... adeo ... Vide

Subtilem Scotum in 4. dist. 8. q. 2 ut ... valere consecrationem ... sacerdos recitet illa verba, deinde quod ...

... dicens accipite et manducate ... illud ... Verbis consecrationis ... forma ... ratione ... Christi ... quod adhuc in nulla ... pace ... hoc ...

... probat. = Respondemus ... quae illa verba accipite et manducate, quamquam ... de nec ...

sacr., nec pertineant ad substantiam formae ... ad ... sacr. ... pertinent ...

ad quandam ... sacri ... cap. ... forma ut ... sacr. ... ut significaret ad ... conficiendum necessarium ... ut docet Cardinal[is]

... ministrandus ... aut ... quidem ... ut docet Cathar[inus] ...

Romanus ... cap. 4 ... et ... D. Thomas ... art. ... Lugo ... Bonacina ...

... Conciliis ... =

Ad 5.

Deinde ... videtur ... sacerdos ...

profert illa verba hoc est Corpus meum ... recitative, et significative ... videtur ...

... nam ... recitative ... narrationis ... consecrat, sicut ...

... illa ... consecrare. nec ... profert illa ...

... significat hoc est Corpus meum ... Christi ... Dicimus ... difficultatem ...

... interpretes ... recitative ... significative verba proferantur, quae ...

... ut docet ... verba ... recitative, et significative, et ...

... proferri ... videtur, si ... attendamus, ubi antecedentia verba ... pro ...

... accepit panem benedixit ... et subsequentia ... pro verbis ... qui pro ...

... recitative ... Deinde ... forma ... significative ...

... personalitate ... profert ... hoc ... demonstrat ...

... quod ... Corpus ... Domini ...

... ut docet ... cap. 4 ... profert ...

[illegible] Ambrosius [illegible] [illegible] Sacerdos [illegible] dicit [illegible] personae [illegible] dicit [illegible]

[illegible]

N. 6

Si quis [illegible] [illegible]

[illegible] Herbaeb. [illegible] [illegible] [illegible] sufficiat [illegible] [illegible] Consecrationis [illegible] fundamento [illegible] Vasques [illegible] [illegible] falso [illegible] [illegible] exemplo [illegible]

[illegible] Alij [illegible] [illegible] formam [illegible] animadversis [illegible]

N. 7

[illegible] forma sacri Sanguinis, plurimum [illegible] inter Catholicos Controversiae. [illegible] [illegible] Sacri [illegible] verba Hic est Calix Sanguinis mei novi et aeterni testamenti mysterium fidei, qui pro vobis et pro multis effundetur in remissionem peccatorum [illegible] Paludanus [illegible] [illegible] fundamenta [illegible] aducunt. Alij dicunt huius Sacri formam esse illa verba Hic est Calix Sanguinis mei, [illegible] Sanguinem [illegible] ut animadvertit Vasquez [illegible] et alij plures quos refert [illegible] [illegible] [illegible] [illegible] testamenti. Alij [illegible] ut [illegible] opiniones reducant ad Concordiam [illegible] [illegible] de integritate formae [illegible] integras [illegible] ut integra maneat forma substantialis, atque [illegible] [illegible] proferuntur [illegible] [illegible] [illegible] [illegible] [illegible] Denique [illegible] alij alias diversas [illegible] [illegible] [illegible] Vasquez [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

N. 8

[illegible] [illegible] [illegible] Sacerdotes [illegible] [illegible] [illegible] Consecrationis [illegible] [illegible] [illegible] [illegible] Romana [illegible] [illegible] [illegible] Sanguinis mei novi testamenti qui pro [illegible] effundetur in remissionem peccatorum [illegible] Sanguinis mei novi testamenti qui pro multis effundetur [illegible] Calix novi testamenti in Sanguine meo qui [illegible] effundetur, [illegible] Paulo ad Corinthios [illegible] [illegible] Calix novi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Calicis [illegible] [illegible] [illegible] [illegible] Sanguis meus novi testamenti qui pro vobis, et pro multis effundetur in remissionem peccatorum, [illegible] [illegible] [illegible] [illegible] Jacobi Apostoli, et [illegible] [illegible] [illegible] Bibliotheca Veterum Patrum [illegible] [illegible] [illegible] [illegible] formam Consecrationis Calicis [illegible] [illegible] [illegible] [illegible]

[illegible]

1[illegible]

[illegible] Sed [illegible] [illegible] [illegible]

[illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] nam [illegible]

[illegible] Mozarabes [illegible] [illegible]

[illegible] Mozarabe [illegible] [illegible]

[illegible] Mozarabe Celebratur [illegible] [illegible]

[illegible] capella de Toledo, [illegible] hispanicis [illegible] Missale [illegible]

[illegible] quod ideo Mozarabe [illegible] [illegible] Mixtarabes [illegible] [illegible] Hispanorum [illegible]

[illegible] Saracenorum, Arabesque [illegible] [illegible] [illegible] [illegible] qui [illegible]

Mixtarabes [illegible] dici [illegible] ut [illegible] [illegible], [illegible] =

Nec [illegible] quod [illegible] tradit [illegible] [illegible]

n.º 10

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible]

[illegible], nec [illegible] sacerdotes [illegible] [illegible] et [illegible] ex traditione; Ex quo [illegible] sequitur [illegible] esse [illegible]

essentiali, nam [illegible] habet ex traditione [illegible] Apostolica [illegible] [illegible] [illegible] quibus latini Consecrant [illegible]

[illegible] Calicis, immo Valde probabile est hispanos modo consecrandi [illegible] habebant [illegible] Missa

[illegible] à Beato Jacobo Apostolo, [illegible] [illegible] [illegible] quibus hispani [illegible]

Missa utebantur [illegible] Beati Jacobi Missa reperiuntur. [illegible] sequitur [illegible], quibus latini

[illegible] essentialia, [illegible] [illegible] ex aliqua parte; [illegible] mutatio in forma essentiali [illegible]

[illegible] ut docet D. Thomas [illegible] 3.ª p. q. 60 art. 7. = [illegible] modo accipienda [illegible] authoritas [illegible]

[illegible] [illegible] [illegible] illa [illegible] nullo tempore [illegible] [illegible] [illegible] [illegible], sed quod [illegible]

[illegible] quod et nos fatemur libenter [illegible] liber [illegible] tractat de [illegible], sed [illegible]

authoritas [illegible] [illegible] quibus [illegible] = Nec [illegible] quod [illegible] [illegible] [illegible] in [illegible]

[illegible] [illegible] sit de essentia uno, [illegible] altero [illegible], ut infra dicemus, [illegible]

[illegible] [illegible] sicut in [illegible] Corporis [illegible] particula [illegible], [illegible]

[illegible] ad [illegible] [illegible], [illegible] [illegible] [illegible]

[illegible], [illegible] [illegible] essentialia posita in consecratione calicis [illegible] ad explic[illegible]

[illegible] [illegible] [illegible], [illegible] =

n.º 11

Secunda Conclusio. Omnia [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] Calicis illo modo quo explicantur ab authoribus [illegible] [illegible] [illegible]

[illegible] D. Jacobi, et D. [illegible], [illegible] [illegible] [illegible] [illegible] Mozarabes [illegible]

[illegible]: sed [illegible] [illegible] [illegible] Pontifex [illegible]

[illegible] [illegible] [illegible] tolerantia, [illegible]. [illegible] ex [illegible] [illegible]

[illegible] [illegible] [illegible] Consecrationis Calicis, [illegible] [illegible] [illegible] [illegible]

[illegible], [illegible] [illegible] [illegible] [illegible]

Probatur [illegible] [illegible]

temporis

[illegible]

[illegible] Colendum [illegible]

[illegible]

[illegible] formis [illegible]

[illegible] Christus [illegible] hic a [illegible]

[illegible] Colendi [illegible] quod [illegible]

[illegible]

[illegible] Colere [illegible]

[illegible] Corporis Christi [illegible]

[illegible]

Verum [illegible] difficultas [illegible]

[illegible] particulariter [illegible]

[illegible] Colendi metaphorice [illegible]

[illegible] debet [illegible]

[illegible] Christi [illegible]

[illegible] principaliter ad [illegible]

[illegible] difficultas [illegible]

[illegible] separatas [illegible]

[illegible] separata [illegible] Corpore significat [illegible]

[illegible] Respondemus [illegible]

[illegible] Corporalis [illegible]

[illegible] Eucharistica [illegible]

[illegible] Corpora [illegible]

[illegible]

Ad 4.m respondemus [illegible]

[illegible] Colendi [illegible]

[illegible]

[illegible] ... Denique [illegible] assertio probatur ex [illegible] ...

[illegible] ... essentialem formam [illegible] ...

[illegible] ... Nec [illegible] ...

[illegible] ... essentialem formam.

[illegible]

[illegible] sufficiente de [illegible] [illegible]

[illegible]

[illegible] de Ministro Sacramenti [illegible]

[illegible]

[illegible] Sacerdos [illegible]

Proximus [illegible] Sacramenti [illegible] sacerdotes [illegible] docet [illegible] Eodem [illegible] Sacerdotes [illegible]

[illegible] consecrat [illegible] gratiam [illegible] Paulus [illegible] sacerdotes [illegible] ministros Christi, et dispensatores mysteriorum Dei [illegible] tractando [illegible] sacerdotes [illegible] sacerdotibus. [illegible] Deo [illegible] sanctificat [illegible]

[illegible]

[illegible] absoluta [illegible]

[illegible]

[illegible]

[illegible]

[illegible] ... [illegible] habent, [illegible] ... vel [illegible] ... catholici [illegible] ... facultate [illegible] ... [illegible]

[illegible] ... aliquid [illegible] ... [illegible]

[illegible] ... [illegible] 1549 [illegible] ...

[illegible] ... unde patet ... [illegible]

[illegible]

[illegible] ... et proinde ... [illegible] ... ut [illegible] ... sacris [illegible] ... ut tradunt [illegible] ... Paludanus ... [illegible]

[illegible] ... peccatum mortale committit ... [illegible]

[illegible] ... ad committendum [illegible] ...

Sufficiens [illegible] ... sed tamen [illegible] ...

[illegible] ... quod [illegible] ... et [illegible] ...

[illegible] ... abeque [illegible] ...

[illegible]

[illegible] ... facere ... [illegible]

[illegible]

Num. 9

[illegible] explicando [illegible] successor [illegible] Comparatione [illegible]

[illegible] dicant [illegible] facto [illegible] [illegible] sacro [illegible] quia [illegible] propria, sed [illegible] ministeri [illegible] personas [illegible] hoc sacrum [illegible] [illegible] qui [illegible] habeat [illegible] Qui [illegible] est fidelis [illegible] prudentiae [illegible] authoritatis [illegible] quae [illegible] Quod [illegible] in haereticis [illegible] [illegible] sacrificare, [illegible] quia illud [illegible] aliquod [illegible] habere, illud [illegible] [illegible] [illegible] [illegible] peccavit mortaliter [illegible] Nec quidquam obstat [illegible] dicere [illegible] [illegible] necessitate [illegible] [illegible] [illegible] cap. [illegible] ad [illegible] 10. [illegible] 24. [illegible] =

Num. 10

[illegible] difficultas [illegible] sacerdotis degradati [illegible] [illegible] quae habeat [illegible] degradatio [illegible] [illegible] sacerdotes degradatos [illegible] [illegible] quia [illegible] character [illegible] [illegible] [illegible] [illegible] [illegible] 97. [illegible] 1594 [illegible] [illegible] [illegible] =

Num. 11

[illegible] de [illegible] [illegible] [illegible]

[illegible]

[illegible] confitetur; [illegible]

[illegible] videtur, [illegible]

Caret, [illegible] videtur [illegible]

[illegible] sacerdotalis ordinis [illegible]

[illegible] hominem [illegible] illud [illegible]

[illegible]

Ut difficultas [illegible] medicinalis [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

tt

Materia de Bautismo

Anno de 1681 2ª Parte

Tractatus Valde Utilis, et Necessarius de Baptismi Sacramento.

Ad illustrationem authoritatum, quae congeruntur à Gratiano in 3.a Decreti parte titulo de Consecratione distinct. 4.a

Proëmium. =

Decreti nostri Compilator Gratianus tractatu de Consecratione quinque distinctionibus ... illius finem proponit, in quarum 1.a de ecclesiis, et altaris consecratione egit, nec non etiam de ornamentis, quae sunt praeparatoria ad dignam Sacramentorum administrationem, in 2.a doctrinam de augustissimo Sacrae Eucharistiae proponit. in 3.a de festivitatibus Christi et Sanctorum pertractavit. in 4.a de uno Baptismi Sacro sermonem instituit; in 5.a denique de Sacramento Confirmationis scripsit. Quae baptismalis portio ad Academiam nostram hoc semestri exponenda assignatur nobis, ô amantissimi auditores. est res utilitatis et necessitatis plena, cum sit baptismi Sacramentum, quod Dei beneficiorum praeclarissimum, atque praestantissimum, et per quod ad cetera Christo sacrata unice fit additus, et ingressus tamquam omnium fundamentum, iuxta que ... in cap. Venientes ult. de presbytero non baptizato, et ... Tridentinum sess. 14. c. 2. ... Divi Augustini in cap. ad fontem 143. de consecrat. dist. 4. et Divi Joannis c. 3. ° nisi quis renatus fuerit ex aqua, et Spiritu Sancto non potest introire regnum Dei. quapropter ut rem hanc, qua solemus cura, exponamus, pro viribus ... ... depromemus tam ex Romanorum Pontificum et Conciliorum Decretis, nec non Patrum Doctorumque scriptis, quae extant in d. dist. 4. et in Decretalibus, ... et Clementinis, quam ex melioribus Theologorum, Summistarum, et Iuristarum doctrinis ... explanationibus. =

Articulus Primus de Baptismi = nomine, ac definitione =

= Ad explicationem textus in capite 1.° cum aliis hac in re = de Consecratione dist. 4.a =

Explicatur Vox Baptismus. =

N.° 1.° Baptismus, vel baptismum, seu baptisma, quod idem indicant, est nomen graecum sicut et Eucharistia et alia similia, graeceque significat quod latine immersio, ablutio, vel intinctio ... illud Judicum cap. 12. quod exibat in vallem, et baptizabat se, id est lavabat se; ideoque in nostra ... Vox baptismatis plerumque assumitur pro ablutione Sacramentali, sive haec fiat per immersionem Corporis in aquam, sive per effusionem aquae in Corpus, licet enim frequenter in Sacris, et aliis Ecclesiasticis officiis retineat graeca, et Hebraica verba ut constat ex cap. ... 80. 23. q. 4 ... et aliis quos tradunt Symancas de Catholicis institutionibus cap. 27. n.° ... Cerda in adversariis Sacris cap. 83. n.° 26. quippe cum exordiis ... temporibus quando maior fidelium pars erat ex Hebraeis et Graecis ... illis dictionibus uti noluerunt postmodum Apostoli, eorumque successores quando quam mutare de his, quibus assueti erant, quibusque credentes fuerant imbuti, et ... ut ...

Belarminus t. 2. controv. lib. 1. de Sacram. Bapt. c. 4. c. prius Bonacina t. 1. disp. 2. de baptismo in princ. Enriquez in summa lib. 1. de Sacris in g. cap. 2 § 2. in fi. Barsey in flor. moralib. v. baptismus n. 1. Conradus Brunus lib. 6. de Ceremonijs cap. 7. pag. 216 Cyrus Jordanus in Epitome Baronij anno dni 44. cap. 36 et 38, et alij plures, quos refert, et sequitur D. Joannes de Solorzano t. 2. de Indiarum lib. 1. cap. 24 n. 27. cum seqq. =

n. 2.

diversis modis nuncupatur baptismus tanquam res eximia

Cum res eximiae uno nomine nequeant demonstrari, ex quo sic similiter Baptismus tanquam talis pluribus nominibus nuncupari consuevit ab Ecclesiasticis scriptoribus ob diversos [illegible] respectus, et cap. Veluti sacramentum Fidei [illegible] cap. ult. de presbytero non baptizato; regeneratio in cap. [illegible] regenerabuntur 135, et in cap. regenerantur 136 de consecrat. dist. 4. in Concilio Trid. sess. 5. cap. 4. et sess. 6 cap. 4. illuminatio in cap. [illegible] [illegible] ad Hebreos de consecrat. dist. 4. renovatio [illegible], thesaurus, custodia, [illegible] gratia in cap. [illegible] Sigillum, seu signaculum dicitur a Clemente Alex. lib. 6. [illegible] Sicut [illegible] cap. 23. Crimen, Venia, seu indulgentia appellatur in l. 4. C. ne sacrum baptisma iteretur in Codice Theodosiano, quem sequuti sunt Nazianzenus, et Gregorij auctoritate, quatenus [illegible] Ubi [illegible], quia hoc sacrum [illegible] aeterno nos [illegible], et in eodem Concilio nec [illegible] Alexandrini Epistola ad [illegible] in Licia, et Pentapoli missa, cum hoc [illegible] [illegible] Cathecumeni baptizentur, et ne ab humanis excedant gratia [illegible] participes. [illegible] [illegible], ubi [illegible] intelligitur de baptismo, ut post Theodorum Balsamonem tradit [illegible] in 33 [illegible] Divus Thomas 2. dist. 140 cap. 1. [illegible], qui animadvertit [illegible] baptismum [illegible] vocari manus impositionem et Crisma, et alijs pluribus nominibus [illegible] effectus, [illegible] quae bene [illegible] explicari, [illegible] Cerda in Tertullianum lib. de penitentia n. 88. et Josephus Vicecomes de antiquis baptismi ritibus lib. 1. cap. [illegible] =

n. 3.

Proponitur Bapt. definitio, explicatur illius particulae

Expositis itaque nominibus quibus baptismus significatur, ad definitionem accedimus, quae licet ab scriptoribus diversimode proponatur, nobis magis placet ea tradita a Cathecismo Romano cap. 2. de Baptismo § 4. ut [illegible] Baptismus est Sacramentum regenerationis per aquam in verbo, quod probatur ex D. Joanne c. 3. nisi quis renatus fuerit ex aqua et Spiritu Sancto [illegible], et ex Paulo ad Ephesios cap. 5. ibi mundans lavacro, [illegible], lavacro aquae in verbo vitae, et ad Titum cap. 3. ibi Salvos nos fecit lavacro regenerationis. [illegible] atque [illegible] definitio [illegible] genere, et differentia. Sacramentum enim ponitur loco generis, ut cum omnibus alijs sacramentis conveniat, [illegible] [illegible] loco differentiae ponuntur, quia [illegible] regenerationis distinguit baptismum a sacris [illegible] Legis, [illegible] vero per aquam distinguit illum ab alijs sacramentis novae Legis, quia [illegible] proprie dicere regenerare, significat [illegible], [illegible], [illegible] justificationis [illegible] [illegible] [illegible] [illegible] nihil differt a regeneratione [illegible] illud Pauli ad Gallatas cap. 4. versu 19 filioli mei, quos iterum parturio [illegible], sed cum additur per aquam denotatur [illegible] differentia, quia reconciliatio [illegible] et regeneratio per aquam, sed quaedam reformatio, et [illegible] renovatio, et [illegible] = Denique ponitur dictio in verbo ut denotetur Sacramenti forma [illegible] [illegible] Sanctissimae Trinitatis, quae [illegible] in [illegible] [illegible] ut docet D. Augustinus [illegible] [illegible] 54 [illegible] definitionem amplectuntur [illegible] in summa t. 1. lib. [illegible] tracta 2. [illegible] [illegible] Belarminus [illegible] de bapt. cap. [illegible] [illegible] [illegible] [illegible] de Sacris [illegible] bapt. cap. 1. n. 5. Decanus 3. [illegible] Theologiae Scholasticae [illegible] de Sacris [illegible] =

n. 4.

Requisitus [illegible] D. Thom.

Verum licet superior definitio [illegible], et conveniens videatur, [illegible] Angelici [illegible] pronunciata 3. p. q. 66 art. 1. omittenda [illegible], quae [illegible] [illegible], [illegible]

[illegible]

corporis exterior facta sub praescripta verborum forma. Dicitur ablutio, quia sacramentum [illegible] aqua, [illegible] consistit in actu abluendi, id est ablutione et sortitur [illegible] [illegible] a qua [illegible] a morte [illegible] anime morte, quam [illegible] baptismus [illegible], quo expectat [illegible] Numerorum cap. 19 ubi [illegible] ut quicunque tetigerit corpus mortui immundus censeretur donec ablueretur eo modo quo ibi [illegible], nec aliud denotant verba definitionis a Catechismo Romano propositae, dum dicit sacramentum baptismi fieri per aquam, ita ut [illegible] [illegible] sit sacramentum [illegible] ablutio, seu [illegible] [illegible] [illegible] in verbum ut post Angelicum [illegible] loco citato docent Magister [illegible] in 4° dist. 3ª [illegible] dist. 5. art. 1° Vasquez 3. p. 22. disp. 140 n°. 3 Bonacina ubi supra 2ª. puncto 1° [illegible] definitionem amplectuntur, [illegible] exactam [illegible] in baptismo tria expectari posse. 1° sacrum tantum 2° rem tantum, 3° rem et sacramentum simul, illud dicitur sacramentum tantum quod significat et non significatur, ut ablutio corporis exterior, illud dicitur res tantum quod significatur et non significat, ut [illegible] sanctificatio per gratiam, illud dicitur res et sacramentum simul quod non tantum significat, sed etiam significatur, ut character qui est res significata per exteriorem ablutionem, et simul est signum interioris justificationis. =

n°. 5. Verum licet praedicta definitio verissima sit, et tam [illegible] [illegible] solent proponi objectiones, ex quibus duas sequentes propriores ac graviores indicamus. 1ª ex eo provenit, quia quando quis seipsum baptizat, aut alius, sed fortasse invitus, vel jam baptizatus vel [illegible] legitima [illegible], tunc ablutio est sub certa verborum forma, et tamen [illegible] baptismus dici non poterit, ergo non recte definitur baptismus, quatenus denominatur ablutio corporis exterior facta sub praescripta verborum forma, [illegible] ablutio [illegible] [illegible] baptismus. Hanc difficultatem ut diluat [illegible] Scotus in 4° d. 3 q. 4ª, et Gabriel ibidem alias definitiones proponunt, quae pluribus [illegible] demonstrantur, [illegible] tanquam a bona definitione [illegible] alienas auctor Dominicus [illegible] loco citato [illegible], ut quae praedictae difficultati satisfaciamus dicimus, quod quando [illegible] fit ablutio [illegible], ac proinde nec baptismus, quam regulariter fieri debeat sub certa verborum forma [illegible] [illegible] baptizo, qui [illegible] seipsum baptizat formam falso profert, et qui baptizat in aqua, quae non est vera aqua, [illegible] ablutio, et qui sine legitima intentione baptizat [illegible] debent [illegible] [illegible], et qui [illegible] vel jam baptizatus baptizat, [illegible] [illegible] significat a baptizante. Verum illud praecipue qui legitima [illegible] baptismo, ut [illegible] [illegible] dicemus. =

n°. 6. 2ª objectio contra [illegible] definitionem ex eo provenit, quia baptismus et ablutio sunt synonyma, et idem omnino significant ut ex n°. 1°. diximus, cumque in exemplis [illegible] [illegible] et gladius, [illegible] unum per aliud definiri non potest, nec in definitione ingrediatur difficultatis non [illegible] dicere baptismus [illegible] ablutio. [illegible] dicebat Bernardus [illegible] [illegible] [illegible] Sanctus [illegible] [illegible] baptismum sacramentum esse aquam, [illegible] sacramentum [illegible] [illegible] [illegible] [illegible] [illegible] loco citato. =

Sed praedictae objectioni [illegible] respondemus dicendo quod quamvis baptismus in sua primaria significatione ablutionem significat, nihilominus, [illegible] Patrum, atque Doctorum Scholasticorum translatum [illegible] ad significandum [illegible] sacramentum baptismi, [illegible] ablutionem [illegible] ablutione tantum significat [illegible] sacramentum baptismi [illegible] [illegible] per ablutionem baptismum definiri, nec est [illegible] synonyma, [illegible] definitur, ut observant [illegible], et Vasquez [illegible] [illegible] [illegible] baptismo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Marginal notes:

+ pluribus a Scoto [illegible]

2ª definitio [illegible]

alia [illegible] [illegible] [illegible] dissolvitur [illegible]

+ [illegible]

Proxima ritus [illegible]

[illegible]

Ex quibus provenit legitime consequens, nempe nullis [illegible] baptismus cum in dictis definitionibus inveniantur, sive celebretur per immersionem, sive per effusionem vel aspersionem, semper verificatur in exteriorem ablutionem corporis sub forma [illegible] aut [illegible] repetitionibus per aquam in verbo, nec diversitas [illegible] ostendit ad essentiam, aut [illegible] baptismi, quia accidentalis est caeremonia, [illegible] tamen [illegible] specifica baptismus est, ut docet Apostolus ad Ephesios cap. 4. [illegible]. [illegible] hodie in [illegible] baptismus celebratur per immersionem, nunquam per effusionem, raro autem per aspersionem, dicendum erit ritus servandus in unoquoque populo, quem Ecclesia vel [illegible] dederit, vel consuetudo rationabilis introduxerit, et necessitas admiserit, ut [illegible] Cyprianus et alii [illegible] Patres eleganter animadvertunt. Angelicus Praeceptor D. Thomas 3 p. q. [illegible] art. 5. qui docet ex causa fieri posse baptismum per aspersionem, vel effusionem, tempore [illegible] multitudinis baptizandorum, [illegible] aquae parvitatis, per debilitatem ministri, qui non potuerit sustentare vel [illegible] in fonte baptizandum, et per debilitatem ipsius baptizati cui ex immersione posset timeri periculum mortis; et [illegible] loco addit [illegible] immersionis esse de necessitate baptismi, quamvis [illegible] observetur, et in pluribus [illegible] sub praecepto sit statuta, ut [illegible] Card. Turrecremata in [illegible] postquam 78 de consecrat. dist. 4. art. 3 [illegible] =

[illegible] 78

+ 49

Sed ad [illegible] Divi Pauli Apostoli et Angelici Praeceptoris certissimam doctrinam, nulli [illegible] afferunt difficultatem. [illegible] ex cap. [illegible] Apostolorum [illegible] non [illegible] aut [illegible] in una initiatione tres immersiones, sed unam tantummodo, quae [illegible] mortem Domini [illegible] deponitur, [illegible] dixit Dominus in mortem meam baptizate, sed docete omnes gentes baptizantes eos in nomine Patris, et Filii, et Spiritus Sancti, cuius authoritas [illegible] [illegible] 79 de consecrat. dist. 4. et ex cap. [illegible] de eadem dist. 4. ex quibus authoritatibus aperte colligitur in [illegible] fuisse praeceptum generale baptizandi [illegible] in unica immersione, [illegible] trina, [illegible] introductam fuisse affirmat D. [illegible] in cap. postquam 78 de consecrat. dist. 4. [illegible] representationis divinae Trinitatis et triduanae mortis, et singularis [illegible], et [illegible] [illegible] cap. 8. dicit tres immersiones [illegible] triduanam sepulturam simbolice, et [illegible] Carlo [illegible] [illegible] Corpore diversorum de divinis officiis trinam immersionem, [illegible] [illegible] demonstrare [illegible] baptismi [illegible] quod Cogitatione, Locutione, et actione Committimus [illegible] praeceptis immersionis de praecepto aut [illegible], verum [illegible] trinam immersionem [illegible] specifica [illegible] baptismi [illegible] =

[illegible]

Propter difficultatem ex [illegible] authoritatibus.

[illegible] difficultati [illegible]

Huic difficultati [illegible] dicendo [illegible] baptismi in [illegible] quod [illegible] ter mergatur in aquis, quamvis licet ter mergantur per ministerium Trinitatis, [illegible] tamen [illegible] reputabatur, [illegible] ratio [illegible] D. Hieronymus super Epistolam ad Hebraeos [illegible] cap. [illegible] in cap. [illegible] de consecrat. dist. 4. [illegible] hodiernis [illegible] baptizandi [illegible] trina, et unica [illegible] fieri baptismus ob temporum, et [illegible] diversitatem ut docet Gregorius [illegible] 41. ad [illegible] Episcopum Hispaniarum, quae extat in cap. [illegible] de consecrat. dist. [illegible] consuetudo diversa, ubi [illegible] addit in una fide, [illegible] trina mersione Trinitatis personarum, [illegible] unica [illegible] divinitatis designetur, recte, et licite quolibet ritu baptizari potest, nisi aliqua Canonica [illegible] [illegible], vel consuetudo, cui [illegible] observantia [illegible] debet, et licet [illegible] ut [illegible] [illegible] immersionis fuisse de praecepto, quamvis unica tantum fieret [illegible], [illegible] [illegible] et aliorum Hereticorum qui [illegible] sancti baptismi [illegible] baptizantes [illegible] in aquis invocata [illegible] morte, vel nomine [illegible] mortui, ut [illegible]

[illegible]

Ex contextu [illegible] Canonis, ubi [illegible] Dominus in morte mea [illegible], sed [illegible] [illegible] baptizantes eos in nomine Patris, et Filii, et Spiritus Sancti, [illegible] [illegible] [illegible] [illegible] [illegible] ... ad Canonem 49, [illegible] 50 [illegible] Canones [illegible] ... lib. 2. cap. 19. 23 [illegible]. =

n. 10.

[illegible] ... Concilium Toletanum, anno [illegible] 633 can. 5. [illegible] ... Concilii [illegible] ... baptismi [illegible] simpla, et unica tantum immersione, quoniam [illegible] ... [illegible] trina immersione [illegible] ... sed trinam in divinitate personarum [illegible], [illegible] unica immersione [illegible] ... [illegible] legitime introductam [illegible] baptismi [illegible], ut eleganter tradunt [illegible] ... tradantes D. Thomas 3. p. q. 66. art. [illegible]. [illegible] 4. dist. 3. art. 8. Ochagavia [illegible] Cano de Locis Theologicis lib. 8. cap. 5. Valentia to. 4. disp. 4. puncto 2. [illegible] Belarminus, et plures quos refert, [illegible] in summa lib. 2. de bapt. cap. [illegible]. =

n. 11.

Sed adhuc [illegible] doctrina difficultas remanet, [illegible] Videtur, quia Apostolicis [illegible] [illegible] ... Constitutio, [illegible] divinis, et Evangelicis [illegible] affirmat Pelagius [illegible] ... Evangelicis [illegible] Deo, et [illegible] Salvatore nostro Jesu Christo tradente [illegible] ... [illegible] semper firmum, et immutabile est, adeo ut nulla lege humana, aut Consuetudine tolli queat, [illegible] ... [illegible] statuta in [illegible] authoritatibus minime potuit abrogari [illegible] ... [illegible] difficultas ut dissolvant [illegible] ... quam authoritatem Canones Apostolorum habeant, [illegible] referendique ad [illegible] divinis, aut ad Canonicos, [illegible] ... Cano de Locis Theologicis lib. 5. cap. 5. [illegible] ... [illegible]

[illegible] ... trina immersione [illegible] ... baptizandus [illegible] ... in nomine [illegible] ... [illegible] D. Thomas [illegible] ... Patris, Filii et Spiritus Sancti

[illegible] Vasquez [illegible] 4 [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] =

Disputatio 2a de Sacramento Baptismi

= De [illegible] ac differentijs [illegible] =

= [illegible] Baptismi [illegible] 4. =

Baptismus [illegible] — Omnes sancti Patres et Theologi [illegible] baptismi [illegible] sanguinis [illegible] baptismi [illegible] [illegible] Deus [illegible] baptismus [illegible] Bellarminus [illegible] baptismus [illegible] flaminis [illegible] baptismus [illegible] martyrium [illegible]

[illegible] Baptismo [illegible] peccatis [illegible] Bellarmino et Bonaventura [illegible] baptismus [illegible] baptismi [illegible] cap. 4 [illegible] cap. 20 [illegible] baptismi [illegible] ut docet [illegible] p. [illegible] 2o cap. 20 [illegible] =

Baptismus sanguinis, quo martyres dicuntur baptizari [illegible]

Sanguine [illegible] martyrium [illegible] dixit apud [illegible] capite [illegible] calicem [illegible] baptismo [illegible] baptizari [illegible] in sanguine [illegible] cap. baptismi [illegible] cap. Catechumeni [illegible] Matthaei cap. 10 [illegible] coram patre meo [illegible] Joannis cap. 14 [illegible] martyrium [illegible] ut docet [illegible] 19 [illegible]

[illegible] cap. 7 [illegible] confessione [illegible] sacro fonte baptismatis [illegible] pro martyrium [illegible] doctrina [illegible] Martha [illegible] martyrii [illegible] pro Deo [illegible] martyrii Laurentii [illegible] [illegible] Joannis cap. 15 [illegible] Thomas [illegible] art. 12 [illegible] Bellarminus [illegible] de bapt. cap. [illegible] =

Nec [illegible] Pauli [illegible] baptismi [illegible]

[illegible]

Flaminis, et sanguinis [illegible] proprie [illegible] baptismata, [illegible] per quem mortalem [illegible] [illegible] [illegible] in bono, et gratiae [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] Deum [illegible] [illegible] [illegible] baptismata [illegible] baptismi. [illegible] aut formaliter [illegible] [illegible] [illegible] quidem hoc baptismum [illegible] [illegible] Christi [illegible] [illegible] ad salutem [illegible] [illegible] pro [illegible] [illegible] reputatur, [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 4 [illegible] 4. [illegible] [illegible] [illegible] q. 66 art. [illegible] [illegible] art. 11. [illegible] [illegible] 1° [illegible] [illegible] [illegible] loco citato cap. 6 [illegible] Valentia [illegible] et alii [illegible] et [illegible] [illegible] de bapt. [illegible] [illegible]

n. 4

[illegible] [illegible] illa celebris, et difficilis [illegible] [illegible] a patribus [illegible] flaminis et sanguinis [illegible] gratiam ex opere operantis, hoc [illegible] [illegible] [illegible] ex opere operato, [illegible] [illegible] quibus [illegible] martyrii [illegible] voluntarie [illegible] [illegible] modo [illegible] [illegible] quia [illegible] [illegible] [illegible] baptismi [illegible] [illegible] ex opere [illegible] [illegible] quando [illegible] [illegible] contritionis, vel [illegible] charitatis ad expulsionem peccati originalis, vel actualis mortalis in adultis; ex opere [illegible] [illegible] gratiam [illegible] [illegible] contritionis [illegible] [illegible] [illegible] [illegible] tamen [illegible] [illegible] justificatur homo [illegible] [illegible] [illegible] peccati originalis, vel actualis mortalis, [illegible] duobus modis [illegible] [illegible] [illegible] [illegible] [illegible] memoriam peccati mortalis [illegible] per dolorem, qui [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] voluntate faciendi martyrii [illegible] [illegible] dolore, [illegible] [illegible] perfecta, aut attritio, [illegible] [illegible] [illegible] q. 85. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Barbosa [illegible] [illegible] [illegible] [illegible] 24 cap. 4 [illegible] [illegible]

n. 5

[illegible] [illegible] [illegible] triplicem [illegible] [illegible] [illegible] [illegible] [illegible] gratiam ex opere operantis, [illegible] [illegible] [illegible] [illegible] martyrium [illegible] [illegible] [illegible] [illegible] [illegible] baptismi [illegible] gratiam ex opere operato, [illegible] [illegible] [illegible] requiri [illegible] [illegible] supernaturalis, sicut [illegible] requiritur ad recipiendam gratiam in bapt. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] gratiam [illegible] ex opere operato, [illegible] solam voluntatem moriendi [illegible] [illegible] [illegible] [illegible] sufficientia ad justificationem, [illegible] vere sit martyr, [illegible] [illegible] [illegible] vel [illegible] [illegible] ad peccata mortalia. [illegible] q. 85. art. 1° ad 2 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] baptismi, [illegible] [illegible] [illegible] [illegible] veniali, et mortali, [illegible] [illegible] voluntate peccato [illegible] [illegible] [illegible] [illegible] q. 66 art. 12 [illegible] [illegible] 4. [illegible] art. 3 [illegible] [illegible] [illegible] [illegible] intelligendi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] peccati mortalis [illegible] [illegible] voluntaria [illegible] [illegible] [illegible] charitatis ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n. 6

[illegible] et exponere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] baptismus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacrati [illegible] [illegible] martyrium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut [illegible] bapt. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] martyrium [illegible] contritio [illegible] [illegible] [illegible] ut baptismum [illegible] [illegible]

Margin notes:

[illegible] [illegible] [illegible] gradu inquiritur.

[illegible] [illegible]

triplex [illegible] [illegible] placet.

[illegible] flaminis [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] 2. n. 4

[illegible] [illegible] [illegible] assignantur.

[illegible] Trid. sess. 14. cap. 2. = 3. quod excludunt necessitatem baptismi, qui si haberi non [illegible] in cap. Cathecumenis 34. de consecrat. dist. 4. can. ultimo de presbitero non baptizato [illegible] et [illegible] habuit 4. actuum Apostolorum, ubi legitur Cornelium iam justificatum [illegible] baptizatum [illegible] dicitur ibidem cap. 9. = 4. denique [illegible] Trid. [illegible] [illegible] ex consensu [illegible] [illegible] de consecrat. dist. 4. c. 2. de [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] S. Thomas 3. p. art. 9. [illegible] [illegible] [illegible] p. 3. art. 4. sect. [illegible] =

n. 7

Praedictis [illegible] [illegible] [illegible] [illegible], quam nullus proponere [illegible] [illegible], [illegible] baptismi [illegible] de veritate [illegible] [illegible] [illegible] diximus, et ita [illegible] subiecto [illegible] recipi in sol. [illegible] Ambrosius [illegible] [illegible] cap. [illegible] bap. [illegible] illuminationis [illegible] [illegible] [illegible] [illegible] per alterum baptismum [illegible] Bellarminus lib. 2. de [illegible] c. 13. [illegible] est quaedam spiritualis [illegible] [illegible] [illegible] [illegible] [illegible] corporaliter [illegible] baptismi [illegible] [illegible] in cap. [illegible] de consecrat. dist. 4. [illegible] baptismus representat mortem, sepulturam, et resurrectionem [illegible] Domini [illegible] ad Romanos cap. 6 [illegible] [illegible] semel tantum [illegible] sepultus [illegible] resurrexit [illegible] [illegible] semel tantum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] consecrat. dist. [illegible] [illegible] baptismus imprimitur caracter in anima indelebilis, sicut [illegible] confirmationis [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] [illegible], ut [illegible] [illegible] [illegible] [illegible] sicut caracter indelebilis [illegible] [illegible] baptismus. [illegible] [illegible] baptismus [illegible] [illegible] ad [illegible] [illegible] originali [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] confirmationis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. =

n. 8

Verum licet baptismus [illegible] certe [illegible] [illegible] collatus [illegible] debeat [illegible] reiterari, tamen [illegible] [illegible] [illegible] collatus fuerit, vel valide collatus, valent [illegible] [illegible] [illegible] sub hac [illegible]: si baptizatus es, non te baptizo, sed si non es baptizatus, ego te baptizo [illegible] cap. 2. de [illegible] [illegible] [illegible] conferri [illegible] de presbitero non baptizato, [illegible] ad talem reiterationem bapt. non est sufficiens quodlibet dubium, timor, aut [illegible] [illegible] [illegible] [illegible] [illegible] nullus [illegible] [illegible] baptismus [illegible] [illegible] debet esse verum, et [illegible] [illegible] [illegible] ex [illegible] =

n. 9

Dubium facti [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] baptismus fuerit collatus, necne, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] catholicis, [illegible] quibus barbari [illegible] de consecrat. dist. 4. = [illegible]

Marginalia: Baptismus [illegible] reiterari [illegible] — [illegible] baptismum [illegible] — [illegible] [illegible] — De dubio facti [illegible]

Exponitur sit nulla ibi adiecta schedula, quæ de baptismo testificetur, illius scedulis afferent cis à nullo subscriptis, aut aliud testimonium bapt. minime rebaptizandum esse nec sub cond. eos moraliter certi censeatur parentes illius exiositi inter christianos soluti e iteratione baptismi vitare quamvis [illegible] aut iudices exponerent [illegible], qui bapt. exercerent, [illegible] [illegible] asserens [illegible] baptizari [illegible] baptizareur saltem sub cond. nomine illud testimonium [illegible] à magna rebone suspicione incertitudinis et [illegible] bapt. [illegible], aut [illegible], et [illegible], [illegible] inter christianos [illegible], aut [illegible], [illegible] possit præstare morale, et sufficiens præsumpt. bapt. cum parentes exponentes filios potius curare soleant de exponentis quam de bapt. credentes eum facile baptizandum [illegible] scriptura bapt., nec sibi consideranti, præsumptione, vel cuiusvis hominis dicti [illegible] [illegible] de consecrat. dist. 4a. qualescunque debeant esse circumstantiæ videlicet et [illegible] moralem dubium judicio viri prudentis relinquitur. Cum in hac re multis à deserendis, ut [illegible] relatos tradit Baracina de bapt. [illegible] punct. 7. n. 11.

n.o 10 — Verum quatenus diximus moralibus indiciis, [illegible] intervenientibus cum bapt. [illegible] adhuc ut [illegible] unius testis sufficere testimonium difficultas gravis [illegible] videtur ex decisione [illegible] placuit sic. de consecrat. dist. 4a. [illegible] de quorum bapt. dubitatur, baptizandos esse, quibus [illegible] certissimi testes qui eos baptizatos esse sine dubitatione affirment. [illegible] difficultatis ut varias solutiones [illegible] intellectu adduxerunt [illegible], illis omissis mihi placet solutio quam tradit Suarez d. disp. 22 sect. 2a [illegible], quatenus affirmat in eo textu plurale positum esse [illegible] singulari [illegible] in [illegible] de [illegible], [illegible] de [illegible]. Vel intelligendum est, ut plures testes requirantur, quando in [illegible], qui vel [illegible], vel [illegible] sufficiant ad moralem baptismi certitudinem generandam, itaut sensus [illegible] sit [illegible] baptizandus est; cum licet multi testes examinentur, nullus tamen certissimus inveniatur qui de illo baptismo testificari valeat, quippe idem est invenire testes certissimos, ac post plures examinatos nullum invenire qui certum testimonium de tali bapt. dare queat, [illegible] Baracina [illegible] Enriquez, [illegible] [illegible], [illegible] casus in dubio [illegible] circumstantiæ [illegible] =

n.o 11. — Dubium autem [illegible] versabitur quoties dubitatur fuerit ne servata

De dubio [illegible] bapt.

vera forma, aut adhibita legitima materia, et circa id fuerint inter se contrariæ opiniones, quarum alia asserat valorem, alia vero negat, non [illegible] [illegible] [illegible] bapt., ad accidit quando infans baptizatus fuisset brachio solo, pede, aut digito exterius matris exerto, de quo infra suo loco [illegible], item quando quis baptizaretur in nomine genitoris [illegible] [illegible], quo casu valde [illegible] [illegible] [illegible] de valore bapt. quamvis probabilius sit in [illegible] ut infra dicemus, item quando in bapt. [illegible] aliquid ferrum [illegible] [illegible] valorem [illegible] solet. = Attamen quando dubitatio de baptismi valore nulla probabili ratione, aut [illegible] nititur [illegible] [illegible] reiterat. [illegible], velut cum dubium excitatur ex eo quod sanctificata infuit aqua, cap. [illegible] sanctificatur de consecrat. dist. 4, vel quia minus [illegible] [illegible] in eloquio dixerit in nomine Patria et Filia et Spiritus Sancta cap. [illegible] 83 [illegible] 4 vel fuit et hæreticus in forma [illegible] baptizans cap. [illegible] 51 [illegible], cap. [illegible] 51 [illegible] quidam [illegible] cap. [illegible] 40 [illegible]. Vel in baptizatus cap. [illegible] Galis [illegible] de consecrat. dist. 4, quibus graviter [illegible] [illegible] [illegible] cap. [illegible] ignorantiæ 59 [illegible] [illegible] ignorantia ordinaria [illegible] baptizetur, debent ab [illegible] baptizatum baptizari, [illegible] [illegible] [illegible] sacrato [illegible] =

Margin note (n.o 10): Opponitur et intelligitur [illegible] placuit de cons. dist. 4.

De [illegible] baptismi [illegible]

n. 112

Hinc provenit inquirendum utrum ille qui incertus est an sit valide [illegible] ex eo quod certum sit baptizatum esse in materia vel forma dubia [illegible] existerent opiniones teneatur petere, atque suscipere novum baptismum sub conditione, et in particulari sub [illegible] debeat iterum baptizari [illegible] iure licet varie existant opiniones ut constat ex traditis a Val[illegible] [illegible] 1 [illegible] 145 [illegible] 4 [illegible] [illegible], et [illegible] iudicamus qua docemur [illegible] Curatus [illegible] baptizare teneri [illegible] baptismum sub conditione illud petere [illegible] probabilis sui dubitatis, atque ex lege charitatis quam maxime debet [illegible] mittat [illegible] cum baptismus [illegible] probabiliter [illegible] in periculis [illegible] damnationis [illegible] quolibet alio [illegible] laico aliquo in extremo mortis periculo baptismi [illegible] nec [illegible] dubitans de baptismo [illegible] certe valore teneri ex charitate, et misericordia sui illud iterum sub conditione sibi conferre curare [illegible] vel [illegible] instante periculo mortis, nam ex lege charitatis tenetur vitare probabile periculum [illegible] quale imminet decedenti sine baptismo vel [illegible] incerto [illegible] in cap. placuit 111. [illegible] cap. [illegible] 112 de consecrat. dist. 4. habere autem alias [illegible] quae [illegible] in certis [illegible], et [illegible] ab homine qui [illegible] pericula damnationis [illegible], cap. [illegible] de [illegible] [illegible] Quod [illegible] quia deficiente baptismo, nequit alium valide suscipere sacramentum [illegible] [illegible] imo [illegible] baptismo dubio illud suscepisset non excusaretur a sacrilegio [illegible] amplectuntur [illegible] d. 11. [illegible] Henriquez et [illegible] et alii relati ab [illegible] de [illegible] art. [illegible]

n. 113

[illegible] baptismum reiterantibus

Ars [illegible] articuli proponere [illegible] poenas quibus [illegible] baptismum reiterantes, quo iure dicamus [illegible] quisquam [illegible] baptizaverit, [illegible] [illegible] [illegible] fuerit, [illegible] gravissimum committere sacrilegii peccatum [illegible] 117 [illegible] 118 de consecrat. dist. 4. cap. [illegible] de apostatis, sicut is qui hostiam iam consecratam intenderet conse[illegible] [illegible] irreverentia [illegible] prohibito utroque [illegible] sacro, [illegible] ostenditur [illegible] nullius sacro[illegible] [illegible] de consecrat. dist. 4. cap. [illegible] 97 [illegible] quamvis ex lege [illegible] [illegible] [illegible], vel alii [illegible] deponuntur, aliique [illegible] irregulares [illegible] cap. [illegible] cap. [illegible] 118 de consecrat. dist. 4. cap. ult. de bapt. ex lege autem [illegible] [illegible] baptisma iteratur. = Illi vero qui scienter rebaptizatus est, [illegible] ad clericatum [illegible] promoveri [illegible] cap. confirmandum [illegible] [illegible] cap. qui [illegible] 1. q. 7. [illegible] clericus, deponuntur [illegible] superiores ordines ad [illegible] cap. [illegible] finali [illegible], facit [illegible] 4. [illegible] 9. [illegible] Vel [illegible] [illegible] posuit, et [illegible] fuit adhibita diligentia, si absolute rebaptizatio fiat, peccatur et incurritur irregularitas, si autem rebaptizetur sub conditione, peccatur quidem [illegible] temeritatis, [illegible] incurrendum [illegible] irregularitatis ut docent Nav. in manuali c. 27 n. 246 Cobb. in [illegible] [illegible] [illegible] Henriquez [illegible] de bapt. cap. 31. et alii [illegible] relati apud quos [illegible] de rebaptizatione tractatio videnda, non [illegible] [illegible] [illegible] Nostri articuli

= Explicatione =

Articulus Tertius De [illegible]

: [illegible] baptismo [illegible] in [illegible] :

: [illegible] cum baptismo [illegible] in cap. [illegible] :

: [illegible] 39 cap. [illegible] 134 [illegible] :

: [illegible] de consecrat. dist. [illegible] :

[illegible] de [illegible]

n. 1

Nostrum salutare [illegible] Baptismi [illegible] antequam a Christo Domino tanquam tale instituerent [illegible] fuit promissum variis sacris scripturae locis, ubi [illegible] illius proponuntur figurae. Sit 1. [illegible] [illegible] in quo Noe [illegible] cum domo sua salvatus est. Sit 2. mare rubrum

Figurae baptismi in [illegible] proponuntur

[illegible]

[illegible] Egiptijs [illegible] filij Israel [illegible] in 2° caput decimum tertij exodi. [illegible] 3ª [illegible] de quo exodi cap. 14. [illegible] Moyses [illegible] flumen, per ex aquis [illegible] filia [illegible] de qua etiam extat mentio in Divi Pauli authoritate 1ª ad Chorinthios cap. 10. ibi nolo vos ignorare fratres, quia patres nostri omnes sub nube fuerunt, et omnes mare transierunt, et omnes in Moyse baptizati sunt in nube, et in mari, [illegible] haec autem omnia figurae nostrae fuerunt. [illegible] 4ª [illegible] 10 [illegible] 12 [illegible] ubi [illegible] baptizavit [illegible] 5ª [illegible] firmi [illegible] recipiebant [illegible] cap. 5°, [illegible] sexta [illegible] fecundavit [illegible] 47 [illegible] cap. 2°. [illegible] in Circumcisione [illegible] cap. [illegible] et [illegible] Joannis, de quibus inferius [illegible] = Nec defuerunt Prophetarum vaticinia quae [illegible] baptismi [illegible] indicarent, extat enim Ezequielis cap. 36 ibi effundam super vos aquam mundam, et mundabimini ab omnibus inquinamentis et Zachariae cap. 13. ibi in die illa erit fons patens domui David, et habitantibus Hierusalem in ablutionem peccatoris, et menstruatae. de quibus extat mentio [illegible] 127. [illegible] qui tradit [illegible] lib. 3. de [illegible] cap. 3. [illegible] Bellarmino [illegible] =

n° 2

Ex his omnibus prophetijs et figuris [illegible] adumbratio [illegible] baptismi fuit in lege scripta Circumcisionis Cremonia divinitus instituta ut extat ex Divi Pauli [illegible] ad [illegible] cap. 2°. [illegible] Circumcisi estis Circumcisione non manufacta in expoliatione Corporis Carnis [illegible] sed in Circumcisione Christi consepulti ei in baptismo ubi Apostolus baptismum appellat Circumcisionem [illegible] per antiquam Circumcisionem baptismus figurabatur ut post Damascenum lib. 4. fidei Orthodoxae cap. 26. tradit D. Thomas 3 p. q. 70 art. 1°. quippe Circumcisio 1° fuit divinitus [illegible] tamquam signaculum fidei in [illegible] [illegible] fidei externa protestatio ut Colligitur ex Apostolo ad Romanos cap. 4. [illegible] docent relati a Belarmino lib. 2 de Sacris cap. 15, et quodammodo agnoverunt [illegible] ut extat ex Modestino in l. Circumcidere ff. ad l. Corneliam de Sicarijs, et ex Paulo lib. 5. [illegible] 22. [illegible] 3°. [illegible] antiquo Collegio fidelium aggregabantur hodie autem nos per baptismum [illegible] fidei Christianae [illegible] [illegible] in baptizato. [illegible] qui de Abrahae stirpe prodierant [illegible] parvulis fuit [illegible] Circumcisio in remedium peccati Originalis, ut Constat ex d° cap. 17. Genesis Versu 14. et ex d° cap. quod autem 5° de [illegible] 6. de [illegible] lib. 4. [illegible] cap. maiores [illegible] ad [illegible] de baptismo, ubi [illegible] docet, [illegible] Originalis Culpa remittebatur per Circumcisionis misterium, [illegible] Successit Loco Circumcisionis, ut testantur plures Patres et scriptores relati a Belarmino d° lib. 2 de Sacris [illegible] =

n° 3

Hinc inquirendum venit quomodo ista Circumcisio conferret gratiam Iustificantem ~~[illegible]~~ quam sic decidamus, supponimus

Quomodo conferet [illegible] Circumcisio gratiam.

Cum Angelico praeceptore D° Thoma loco [illegible] citato 3. art. 4 Circumcisionem multo imperfectius gratiam afferre quam Sacramentum bapt., quia illa [illegible] dabatur Virtute Circumcisionis, sicut datur Virtute baptismi, et aliorum sacramentorum novae legis, sed Virtute fidei, Vel propriae in adultis, vel aliena applicata parvulis [illegible] Ceremonia Circumcisionis [illegible] et protest. atque [illegible] Circumcisio [illegible] solum conferebat gratiam tamquam signum [illegible] fidei in futurum [illegible] Hoc supposito [illegible] dicimus Circumcisionem [illegible] efficientem gratiae [illegible] ex opere operato et [illegible] Operis, sed ex opere operantis, [illegible] Virtute fidei [illegible] Salvatoris, quod probatur ex D° Paulo 1ª ad Corinthios cap. 7°. [illegible] Circumcisio nihil est, et ad Galatas cap. 4°. ubi circumcisionem, et alias Ceremonias legales vocat infirma, et egena elementa [illegible] quia ex se [illegible] ex opere operato [illegible] justificandi nullam habent, et ex d° [illegible] Florentino [illegible] ubi [illegible] Eugenius 4. docet quod novae legis sacra multum differunt a sacris antiquae legis [illegible] causabant gratiam [illegible] passionem Christi [illegible] figurabant, [illegible] et continent gratiam, et [illegible] suscipientibus, [illegible] ex opere operato, [illegible] 27 [illegible] institutis [illegible] [illegible] Sacramentum [illegible] nulla quae [illegible] et ex [illegible]

[illegible] de Sacris [illegible] cap. 2° [illegible] in [illegible] doctrinae antecedentes [illegible]
art. 6 art. 7. Soto in 4° d. 2ª q. 1ª art. 4. [illegible] de Sacris in communi [illegible] 2° [illegible]
[illegible], et alij quos refert [illegible] Frayo [illegible]

nº 4

[illegible] Circumcisionis [illegible]

[illegible]

[illegible]

[illegible]

[illegible] Circumcisionis [illegible] ex opere operato, et ex opere operantis, [illegible] efficacia
peccati Originalis adquam refferit [illegible] dum dicit, id qd apud nos [illegible]
ijs misterium Circumcisionis, [illegible] efficaciam [illegible]
[illegible] docuit [illegible] Valuisse ad Iustificatis purgationis peccati Originalis [illegible]
Bapt. 1. respectu effectus utriusque qui [illegible] propie et immediate [illegible] sed similiter
in modo different. baptismus enim operatur ut instrumentum passionis Xpi iam exhibitae, Circumcisio [illegible]
[illegible] fidei passionis futurae, ut docent Turrecremata [illegible] cap. [illegible] Soto [illegible] art. 4 pag. 142
Larminus [illegible] de Sacris cap. 17. [illegible] Vasquez [illegible] in 3ª p. [illegible] cap. [illegible] Gold
[illegible] nº 16, apud quos et alios iam relatos plenius inveniendur Cetera quae ad solemnitatem ritus, nec
tatis effectus Circumcisionis expectant. =

nº 5

[illegible] Sacramenti baptismi adumbra
per bapt. Joannis Veluti [illegible] proximam eius dispositio et preparatio et ut inter [illegible] baptismi figuras [illegible]
fuit proximior, ita nulla similior quam baptismus [illegible] Joannis. [illegible] cognoscentes
discrimina, convenientias existentes in terminis sacris bapt. [illegible], et [illegible] Joannis baptismus explicentur, [illegible]
et prius de convenientiis [illegible] dissertamus; [illegible] convenit in materia remota, et proxima, quae erat [illegible]
ablutio; ut constat ex Divi Mathei cap. 3° ibi ego enim baptizo vos in aqua, ex Joanne cap. 1° ibi ego
in aqua baptizo et ex alijs locis quibus probatur Joannes in Jordane baptizare, ut docet Tertullianus
lib. de bapt. cap. 4. [illegible], nec quidquam refert inter locos quos Joannes in Jordane, et quos [illegible]
in Tiberi tinxerit, qui intelligi debent non de toto baptismo, sed solum de modo, ut docet Belarmi
[illegible] lib. 2 de bapt. cap. 22 Columna penult., ut [illegible] in refferre qua [illegible] aqua baptizarentur, cum
Tertullianus in loco [illegible] capite manifeste dixit quod à baptismo Joannis bapt. [illegible] excel
[illegible], quo expectat Divi Aug. auth. [illegible] relata [illegible] regeneratione [illegible] de [illegible]
[illegible] baptismus est in aqua tantum sicut fuit Joannis, verum etiam in Spiritu Sancto, et
aqua Voluit baptizari à Joanne [illegible] Turrecremata [illegible]
cum et alios antiquiores ibidem Enriquez de bapt. c. 33. [illegible] =

nº 6

Convenit 2° [illegible] Verbo quae Verbis forma
[illegible], [illegible] bapt. [illegible] Ego te baptizo in nomine Patris, et Filij, et Spiritus Sancti, ut
de forma latius explicabimus. quae autem fuerit forma Verborum [illegible] in bapt. Joannis [illegible]
alij [illegible] ex scriptoribus [illegible] authoritate [illegible] Joannis formam in nomine Xpi Venturi [illegible]
[illegible] ex actis Apostolorum [illegible] et ex alijs authoritatibus, quorum [illegible] licet plausibile, [illegible]
sit Verius [illegible] Bapt. Joannis [illegible] habuisse certam et determinatam [illegible] Verborum formam
sed [illegible] à Joanne quibusdam Verbis [illegible], et [illegible], [illegible] Verba formae, [illegible]
tamen illis, quibus [illegible] ad Xpum, atque ideo [illegible] fecisse Xpi Venturi [illegible]
nominis [illegible], [illegible] Videtur ex loco Divi Mathei cap. 3. ibi Xpus Domi
[illegible] bapt. Joannis, et [illegible] dicere baptizatus fuisse [illegible] sub hac forma, Ego te [illegible]
[illegible] in nomine [illegible] Venturi. [illegible]

[illegible]

[illegible]

[illegible]

De bapt. Joannis et de eius convenientia cum bapt. Xpi.

[illegible]

De prima convenientia

De Baptismo

[illegible] ... Apostolis ... [illegible] ... Dominus [illegible] ... [illegible] ... dicant.

n.º 7

[margin: 3.ª assertio [illegible]]

Dico 2.º Baptismus Joannis [illegible] ... baptizavit in Deo ... baptizabat ... Spiritum Sanctum ... D. Thomas 3. p. q. 38. art. 2. ... [illegible] ... ex nominibus [illegible] ... Joannem [illegible] ... quia nominamus [illegible] efficaciter ... [illegible] ... 2.º intelligi [illegible] ... baptismus Joannis non erat de [illegible] ... Aug. tr. [illegible] de Consecrat. dist. 4. ... Joannis [illegible] ... baptismus a Joanne nominatus fuit ... baptismo novae legis cum principali effectu, scilicet emundatione interna animae, ... dicitur baptismus ... aliud ... de Consecrat. dist. 4. ... dedit ... ubi quos baptizavit Joannes, Joannes baptizavit, quos autem baptizavit Judas, Christus baptizavit; Judas enim baptizavit baptismo Christi ... quem invisibiliter abluit, et mundat ... cap. aliud ... ubi jam non mundi estis ... non baptismi Joannis minister solus Joannes erat, et quodammodo ... Quid Joannis ... ibi nondum enim missus erat Joannes in carcerem, ... [illegible] ministri ... dispensatores ... Paulus 1. ad Corinthios cap. 1.º ubi inquit Paulus crucifixus est pro vobis, aut in nomine Pauli baptizati estis; unde ... Suarez de Sacram. disp. 23. art. 1. sect. 4. [illegible].

n.º 8

[margin: Differentia inter baptismum Joannis et Christi]

Ex his animadvertis ... convenientiae [illegible] Joannis cum sacramento Christi ... Discrimina ... distantiae; sic 1.º ... quia Joannes ... ante novam legem ... fuit minister, et quasi promulgator et institutor ... [illegible] Ceremonia, ... praeceperat, sed velut catechismus, et sacramentale quoddam disponens ad baptismum Christi, et velut ... proximum Evangelicae gratiae ... sacrum ... fuit institutus ... de illius ... dicemus.

[margin: ut docet D. Th. ... 17. ... Suar. ...]

Sit 2.º ratione formae, nam baptismus Joannis ... Sanctissimae Trinitatis, immo sub nulla certa et determinata forma fiebat ut ... dicimus ... qui sub ... invocatione debet fieri ut ... de Sacramentis ... Sit 3.º ratione ministri, quoniam baptismus Joannis ab ipso solo conferri debebat, ... ad baptizandum missus fuerat, ... a quibuscumque conferri, ut dicemus ... de ministro. Sit 4.º ratione necessitatis nam Joannis baptismus non fuit ad salutem necessarius ... medii, ... praecepti, ... baptismus Christi ... hominibus ad salutem necessarius ... medii et praecepti, ut ... de necessitate illius explicabimus; ideoque universo mundo ... in Matthaei ... gentes baptizantes eos ... Joannis solo populo Judaico ... Sit 5.º ratione effectus nam baptismus Christi ex opere operato confert internam, et spiritualem ablutionem ... Spiritus Sancti, sed baptismus Joannis ... ex opere operato solum externam ablutionem ... de Consecrat. dist. 4. ... Trid. sess. 7. de Bapt. can. 1.º ubi ... dixerit baptismum Joannis habuisse eandem vim cum baptismo Christi sit anathema ... Bellarminus, et ... [illegible].

n.º 9

Et ... Matthaei, et Lucae ... cap. 3. ... Venit in omnem regionem Jordanis praedicans baptismum poenitentiae in remissionem peccatorum ... baptismus Joannis ... peccata ... Quis baptizabit ... 2.º de baptismo

[catchword: [illegible]]

16

[illegible] ... peccatum [illegible] ...

[illegible] ... baptismo Joannis [illegible] ... Turrecremata [illegible] ... Bellarminus et [illegible] ...

n.º 10

Sit sexta [illegible] inter praedicta baptismata [illegible] quod baptismus Joannis non fuit sufficiens ad salutem, immo post institutum et receptum Christi baptismum [illegible] fuerunt [illegible] qui baptismo Joannis erant baptizati, ut constat ex actis apostolorum cap. 19. ubi baptizati baptismo Joannis iterum baptizari [illegible] Christi, et ex [illegible] Marci cap. 1.º ubi dicitur quod egrediebatur ad Joannem omnis [illegible] regio et baptizabantur ab illo, et in diebus Pentecostes omnes sine discrimine ad baptismum Christi vocantur [illegible] caput 2 actuum [illegible]. [illegible] nulli Apostoli [illegible] praeter Andream fuerunt a Joanne baptizati, et in [illegible] omnes [illegible] fuisse rebaptizatos baptismo Christi ex Aug.º epistola 108 ad Seleucianum et ex [illegible] cap. [illegible] 29. de Consecratione dist. 4, [illegible] quod baptizabat Judas [illegible] iterum baptizati, quos baptizavit Joannes iterum baptizati sunt, plane iterum [illegible] baptismus, [illegible] dedit [illegible] Judas, et baptizatus a post Judam, Joannes, et baptizatus a post Joanne, in quo [illegible] baptizatus significat iterum baptizari baptismo Christi, atque ita [illegible] baptizati a Juda [illegible] baptizabantur iterum, nam receperant baptismum Christi, et [illegible] Characterem in anima indelebilem, [illegible] autem baptizati a Joanne, ut docent Archidiaconus, et Turrecremata [illegible] cap. [illegible] D. Thom. [illegible] q.ª 38 per totam, et alii quos refert, et sequitur Suarez tom. 3 [illegible] 4 [illegible].

n.º 11

Sit necessario [illegible] Verum baptismus Joannis [illegible] erat ad baptismum Christi, et cuius figura [illegible] post institutum baptismum Christi, hoc est postquam a Joanne baptizatus Christus, [illegible] videatur affirmare Aug. tractatu 4 in Joannem [illegible] baptizato Christo Domino non [illegible] Joannes baptizasse, ut aperte docemur in [illegible] cap. 3.º Joannis versu 22 [illegible] quod venit Jesus in Judaeam et baptizabat, erat autem et Joannes baptizans, sed [illegible] baptizavit nisi postquam fuit baptizatus [illegible] baptismus [illegible] cessavit baptismus Joannis, immo nec cessare debuit, [illegible] Christus dominus [illegible] baptizat, [illegible] praecursor a ministerio baptizandi, et praedicandi. [illegible] baptismus Joannis [illegible] praeparatorius erat ad hoc quod Christus baptizaretur, sed et ad hoc ut alii ad Christi baptismum accederent [illegible] post baptismum Christi baptizabat, et praedicabat Joannes, [illegible] mittebat ad Christum, [illegible] a [illegible] Herode in Carcerem missus fuit ut constat ex [illegible] cap. 3.º Joannis versu 25. [illegible] erat autem Joannes [illegible] missus fuerat Joannes in Carcerem, ex quibus [illegible] Joannem [illegible] in vincula [illegible] baptismum, [illegible] Chrysostomus homilia [illegible] in Joannem [illegible] D. Thom. [illegible] 5. et alii [illegible].

n.º 12

Denique ut hinc [illegible] illud [illegible] Domino [illegible] baptismo Joannis [illegible] Antonii [illegible] baptizavit [illegible] Christi, qui [illegible] habuerit [illegible] ad [illegible] Christi baptismale [illegible] fuit [illegible]

[illegible]

[illegible]

Articulus Quartus Decimus

De Sacramento baptismi. ad explicat. tituli capitulorum ex quo 6.o capite proponitur [illegible]

cum capite proximo 10. hac ima de consecratione dist. 4.a [illegible]

Ep. et inter in illo baptism. Quando et essentia legis Sacro. [illegible]

Verum baptismi Sacramentum institutum esse à Christo domino nostro certissimum est, et patet ex [illegible] Matthæi cap. [illegible] et docete omnes gentes baptizantes eos in nomine Patris et Filij, et Spiritus Sancti, et ex cap. 3.o [illegible] Joannis [illegible] qui baptizat in Spiritu Sancto, et ex cap. ad abolendam de hæreticis, Concilio Florentino sub Eugenio 4.o in decreto de Unione Armenorum, Trid. sess. 7. de sacris in genere can. 1.o, et ex Cathechismo Pij 5. 2.a p. de sacris in genere § 4. et docent D. Ambrosius in lib. 4 de sacris cap. 4. [illegible] Sacramentum quis [illegible] dominum [illegible] Aug. [illegible] 118 cap. 1.o D. Thomas 3. p. q. 64. et pluris ubi omnes [illegible], et ratio est quia Sacramenta instituere ad excellentiam potestatis pertinet, quæ soli Christo domino nostro competit [illegible] D. Thomas 3. q. 64 art. 2.o adeo nec Apostoli [illegible] domini, quos Scriptura Sacra ministros [illegible], et dispensatores appellat Paulus testante 1.a ad Corinth. cap. 4. Sic nos existimet homo ut ministros Christi, et dispensatores ministrorum Dei, nec ecclesia ipsa potuerit Sacramenta instituere, aut quidquam de eorum substantia mutare [illegible] Trid. [illegible] cap. 2.o [illegible] alias authoritates quas adducit Greg. de Valencia t. 4. disp. 3. q. 5. puncto 1.o [illegible] adjungimus [illegible] de [illegible] in cap. ex quo 6. de consecrat. dist. 4, ubi dicitur baptismus exordio [illegible] ad innovationem hominis, ex quo [illegible] ita est intelligendum, ut significetur [illegible] baptismum ad innovationem hominis ex quo, id est ex loco à Christo Domino nostro fuit institutum, vel ex tempore quo fuit [illegible] ab ipso per intervallum [illegible] docet D. Gregorius lib. 2.o de divinis officijs, cap. 4 in principio.

n.o 2.

Quo autem tempore [illegible] dominus noster Sacramentum baptismi instituerit valde [illegible] apud scriptores est, quamvis triplex [illegible] 1.a docet post passionem, et resurrectionem [illegible] probatur 1.o ex Chrysostomi, Ruperti, et Tertulliani authoritatibus, qui in hanc [illegible] se inclinare videntur, quoniam tenent nec ante baptismum quo Apostoli baptizabant ante passionem fuisse Sacramentum novæ legis, aut habuisse efficaciam, quam baptismus accepturus erat à passione Christi, antea enim Spiritus [illegible] quia nondum erat Jesus glorificatus, ut habetur Joannis cap. 7, et consequenter concludunt ante passionem non fuisse baptismum in Spiritu, sed in aqua tantum. = 2.o facit [illegible] in cap. [illegible] in principio, et [illegible] ipsa igitur de consecrat. dist. 4. ubi Leo [illegible] baptismi quoad efficaciam, et virtutem regenerandi fuisse post mortem, et resurrectionem Christi institutum [illegible] ibi dicitur et figura eius mortis, et resurrectionis [illegible] D. Paulus ad Rom. cap. 6. [illegible] [illegible] Leonis authoritas quæ extat in cap. [illegible] 4 eadem dist. 4.a ubi [illegible] Christus dominus [illegible] potentiam sanctificationis [illegible] ex latere [illegible] sanguinis redemptionis, et aquæ baptismi [illegible] cum qua nitre conveniunt Innocentij decretum in cap. in quadam [illegible] de celebratione missarum, ubi [illegible] probaverat ex Christi latere post eius mortem aquam, et veri sanguinis [illegible]

Ep. pie. 18.

[illegible]

[illegible]

n.º 4

Resp.º quamquam probabilior [illegible] sit sacram [illegible] ante Christi mortem, et resurrectionem modo fuisse institutum [illegible] et formam, verosimilius Apostolos [illegible] defendunt cum [illegible] D. Thomas, [illegible] et [illegible] D. Thomas [illegible] art. 2.º Belarminus [illegible] lib. 1.º de baptismo cap. 5.º Valentia [illegible] Vasquez [illegible] et alii plures [illegible] Henriquez lib. 2.º de baptismo cap. 5.º quorum [illegible] adeo intrepide [illegible] ut [illegible] dicant [illegible] esse temerarium, alii erroneum [illegible] probabiliorem [illegible] fundamentum [illegible] indicamus. 1.º ex cap. 3.º Divi Joannis, ubi docetur [illegible] baptizasse, [illegible] hic venit Jesus, et discipuli ejus baptizabant. 2.º ex cap. 19 actorum, ubi [illegible] de rebaptizatis quos Joannes baptizaverat, at nunquam legimus rebaptizatos eos quos discipuli Christi ante passionem baptizaverant, quia baptismi sacram [illegible] receperant, adeo ut [illegible] Juda [illegible] baptismum [illegible] iterum baptizandum [illegible] cap. [illegible] 4. [illegible] antemortem, [illegible] laqueo se suspenderit Matthei cap. 27. [illegible] et ante mortem Christi institutum, et administratum fuisse [illegible] Apostolos [illegible] sacram.

3.º probatur [illegible] (D. [illegible]) Patres [illegible] Apostolos ante passionem baptizatos fuisse vero baptismi sacramento docet [illegible] 108, [illegible] refertur [illegible] 24 [illegible] dist. 4. [illegible] libro 3.º de anima cap. [illegible] [illegible] 14 [illegible] dist. [illegible] explicans illud [illegible] cap. 13 [illegible] nisi ut pedes lavet, et Nicephorus lib. 2.º historiae ecclesiasticae cap. 3.º [illegible] suis manibus baptizasse Petrum et [illegible] filios Zebedei, et Nazianzenus orat. 39 [illegible] nobenter, nam credibile [illegible] sacram [illegible] de [illegible] Apostolis [illegible] baptizat. nec verosimile [illegible] sacerdotes [illegible] Corpus Consecrandi [illegible] nisi [illegible] baptizati, [illegible] baptismus [illegible] ad [illegible] sacram [illegible] erat [illegible] agnus paschalis, [illegible] figura [illegible] atque adeo [illegible] Apostolis [illegible] cap. [illegible] de [illegible] lib. [illegible] 6. cap. 4. [illegible]

n.º 6.

[illegible] Patres [illegible] fundamentum [illegible] quamquam [illegible] probabilior [illegible] Certum [illegible] confirmata, [illegible] Patrum authoritatibus roborata probabilior, [illegible] Nec [illegible]

9.ª

De Baptismo

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] 13 & 14 [illegible]

[illegible] ... ibidem ... [illegible] ... Doctores ... [illegible] ... Benedict. in [illegible] ... cap. ... Omnes ex Salmanticenses [illegible] ... definiere bapt. ... institutum ante mortem et resurrectionem [illegible] ... ex confesso, sed ... solemnitur ... baptismum ... administrandum est, adhuc erat eundem ... [illegible] ne in die ... baptismum ... celebrarent, sed differrent usque ad Pascha, et Pentecostem, ideo ... baptismum ante mortem, et resurrectionem ... institutum quoad ... [illegible] ... definiens, sed tanquam ... aut ... probabile adducens ... sententiam ... ad aliquid est de fide statuendum, cum ... definitione ... [illegible] ... sui decisionibus ... adducet, de quibus interrogabatur ... probabilior, ... quamvis definitionem ... atque certam ... [illegible] ... de forma ... dicemus.

Nec obstant ... Theologorum ... ad dicendum baptismum habere efficaciam ... nam ad ... Pauli ad Romanos cap. 6 ... in morte ... baptizati sumus ... ante ... post ... institutum, ergo tunc habebat efficaciam ... justificandi ... postea futura erat, cum ... hac ante ... instituta fuerint, ... [illegible] ... Catechismi ... cap. ... de bapt. ... 16 ... atque sacrata veteris legis ... baptismus ... figurabat ... sacramentum ... justificandi institutum ... quia ... operat ... quatenus ... [illegible] ... justificandi efficaciam ... [illegible] ... Matthaei ... cap. 28 ubi Christus ... formam baptismi ... [illegible] ... ante resurrectionem ... baptismi ... [illegible] ... formam, et efficaciam ante mortem ... Matthaei cap. 3 ... fuit baptizatus a Joanne ... Matthaei ... forma baptismi facta fuit ... sed ... Christus ... Apostolis ut docerent omnes gentes ... baptizarent ... forma ... [illegible]

Nec ... [illegible] ... post mortem ... sacramentum ... [illegible] ... sacramentum novae legis ... efficacia ... post mortem ... sacramentum ... [illegible]

[illegible]

baptismi [illegible] ... [illegible]

[illegible] obijciunt [illegible] institutum fuisse quando Joannes [illegible] ... Spiritus Sancti descendens, et manens super eum, [illegible] ... Dominus Nicodemo, nisi quis renatus fuerit ex aqua, et Spiritu Sancto [illegible] ... [illegible] incertum [illegible] tempus quo fuerit baptismus institutus [illegible] ... omnes affirmandum sacrum baptismi [illegible] Dominus [illegible] ... [illegible] baptizatus [illegible] ... [illegible] Baronius in apparatu ad annales [illegible] ... [illegible] de consecratione dist. 4, ubi docemur aquas baptismi [illegible] ... Dominica [illegible] sanctificatas fuisse [illegible] baptismum [illegible] fuisse a Christo Domino a Joanne baptizato, nam si aquas tunc sanctificasset [illegible] ... baptismi [illegible] quoad materiam, [illegible] formam, [illegible] ... [illegible] baptismi, [illegible] ... [illegible] et alij [illegible] =

n.º 44

Hoc [illegible] ex [illegible] Christo [illegible] de consecratione dist. 4 [illegible] D. Ambrosius [illegible] Christus instituisse baptismum quoad materiam et formam [illegible] ... [illegible] colligitur ex D. Matthaei cap. 3.º in fine, ubi [illegible] Christus baptizaretur revelatum est mysterium [illegible] ... [illegible] forma [illegible] filius meus dilectus, [illegible] ... Sanctus in specie columbae super [illegible] ... [illegible] personis [illegible] mysterio Trinitatis [illegible] ... = denique [illegible] ... [illegible] D. Matthaei [illegible] ... ego a te debeo baptizari, et tu venis ad me, respondet Christus Dominus, sic enim decet nos adimplere omnem justitiam [illegible] ... [illegible] baptizavit [illegible] ... [illegible] Augustinus, Gregorius, Nazianzenus, et alij [illegible] ... D. Thomas [illegible] ... [illegible] 140 cap. 6 [illegible] ... [illegible] de consecratione dist. 4 [illegible] =

Denique animadvertimus [illegible] ... [illegible] baptismum a Christo Domino [illegible] fuisse [illegible] a Joanne baptizari [illegible] ... [illegible] baptizandi [illegible] ... [illegible] baptizavit, et ad baptizandos alios [illegible] ... [illegible] baptizatur a Joanne. Nec [illegible] movere debet [illegible] ... [illegible] institutum baptismum [illegible] dixit Nicodemo in capite 3.º D. Joannis, nisi quis renatus fuerit ex aqua et Spiritu Sancto [illegible] ... [illegible] baptismi [illegible] secreto [illegible] ... [illegible] Nicodemo [illegible] ... [illegible] in secreto [illegible] ...

[illegible] 140 [illegible]

[illegible]

[illegible]
[illegible]
[illegible]

[illegible]

1. [illegible] Sacramento [illegible] [illegible] [illegible] [illegible] [illegible] Concilium [illegible] [illegible] cap. [illegible] [illegible] Joannis cap. 3°. [illegible] nisi quis renatus fuerit [illegible] [illegible] introire in regnum Dei, quo loco mag. baptismi [illegible] Patres semper docuerunt [illegible] de aqua vera, et naturali [illegible] Scriptura [illegible] [illegible] docente D. Aug.° [illegible] de doctrina Catholica cap. [illegible] [illegible] [illegible] metaphorice intelligenda [illegible] [illegible] Apostolus ad Ephesios cap. 5°. ibi mundans lavacro aquae in verbo vitae, et Actorum [illegible] [illegible] [illegible] [illegible] eunuchus et Philippus [illegible] [illegible] [illegible] [illegible] [illegible] eunuchus dixit, Ecce aqua, quis prohibet me baptizari [illegible] [illegible] [illegible] [illegible] in aqua vera, et naturali [illegible] [illegible] cap. 10, ubi D. Petrus in domo Cornelij dixit, numquid aquam quis prohibere potest ut baptizentur [illegible] =

Probatur etiam superior doctrina ex figuris [illegible] quibus olim sacrum baptismi praefigurabatur, et [illegible] qui fuerunt [illegible] ut diluvium, mare Rubrum [illegible] [illegible] fecundabat [illegible] aqua [illegible] [illegible] [illegible] [illegible] alia quae [illegible] recensuimus in articulo de figuris; accedit et illud quod vera aqua ex latere Christi Domini profluens [illegible] [illegible] caput [illegible] Joannis, et [illegible] [illegible] [illegible] aperte denotat materiam hujus sacramenti esse aquam veram, et naturalem. = Nec deest [illegible] pro dicta doctrina, quippe [illegible] ratio est voluntas Christi domini ita [illegible] qui tanquam supremus [illegible] [illegible] sacrum baptismi [illegible] [illegible] [illegible] de 717. ratio [illegible] [illegible] communiam aquae res [illegible] qualem esse oportebat ad [illegible] sacramentum [illegible] atque necessarium [illegible] ut [illegible] facilimum [illegible], atque ad [illegible] Evangelicae [illegible] accomodatum. Ratio autem mystica [illegible] aqua [illegible] analogiam et [illegible] ad significandam interiorem munditiem ut constat ex [illegible] cap. 9 versu 10. [illegible] [illegible] Sanctorum Patrum authoritatibus, Aug.^s Greg.^s Ambrosius, Chrysostomus, Hieronimus, Cyprianus, alijque quos refert Belarminus [illegible] [illegible] [illegible] D. Thomas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Diana [illegible] [illegible] [illegible] [illegible] universaliter [illegible] [illegible] [illegible] nihil aliud [illegible] baptismum [illegible] [illegible] solam aquam elementalem [illegible] [illegible] =

Veritas haec certissima [illegible] in primis [illegible] videntur [illegible] baptista apud D. Matthaeum, et Lucam [illegible] cap. 3°. ibi Ego baptizo vos in aqua, ille vos baptizabit in Spiritu Sancto, et igne, quae demonstrare videntur [illegible] aquam, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] difficultas adeo gravis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] baptismali [illegible] [illegible] [illegible] [illegible] [illegible] quadam ignis adustione. = [illegible] [illegible] tanquam valde erroneo, et [illegible], [illegible] in doctrina dicimus [illegible] [illegible] [illegible] illud [illegible] [illegible] [illegible] de baptismi [illegible] [illegible] [illegible] [illegible] cap. 6. sed [illegible] Spiritus Sancti [illegible] [illegible] [illegible]

[illegible]

[illegible]

Prob. [illegible]

19

[illegible]

Intellig. [illegible] n. 4

[illegible] Verum [illegible] difficultas adeo gravis [illegible] ut huius dissolvendae gratia [illegible] nulli [illegible] sed [illegible] naturalis aqua [illegible] Thomas de [illegible] [illegible] 4. Joannis Vers. 23. [illegible] baptismus [illegible] excellentiori baptismo Joannis [illegible] aqua undecunque ducatur vel deriuetur, [illegible] Jordanis [illegible] fontis Veras impleuit, atque [illegible] [illegible] baptismi [illegible] [illegible] Carnis [illegible] [illegible] ad Veram [illegible] Archidiacons [illegible]

Sola quaelibet aqua naturalis est materia baptismi

n. 5.

Manet [illegible] sola aqua vera et naturalis, quaecunque sit, vocant [illegible] materia necessaria et sufficiens ad [illegible] baptismi [illegible] Theologi [illegible] Utrique [illegible], talis enim aqua [illegible] ad baptismum, atque ideo sufficiens erit aqua maris, fluminis, fontis, putei, lacus, paludis [illegible] [illegible] de [illegible] [illegible] 12. [illegible] de [illegible] [illegible] de fonte [illegible] aqua naturalis [illegible] baptismi [illegible] Concilii [illegible] decreto [illegible] glacies, [illegible] grandine [illegible] meathus, aut [illegible] cineres [illegible] qualitates accidentales, [illegible] substantia [illegible] ad [illegible] baptismi remota [illegible] Thom. [illegible] art. 3. [illegible] Theologi [illegible] Soto in 4.° [illegible] unica art. 4. Suarez [illegible] disp. 20 [illegible] [illegible] Valentia [illegible] resolutionis [illegible] 3. resolut. 4. [illegible] =

n. 6.

Aquae resolutae ex sale

Hinc [illegible] aqua resoluta ex sale, [illegible] sit sufficiens materia remota baptismi, [illegible] licet [illegible] Summa Angelica, [illegible] [illegible] aqua [illegible] [illegible] quia [illegible] constat [illegible] resoluto fieri aquam [illegible] quilibet [illegible] baptismi, [illegible] [illegible] ut docent [illegible] baptism. [illegible] n. 4. [illegible] n. 10. [illegible] n. 4. [illegible]

bapt

[illegible]

... Suarez ... [illegible] ... quaestio ... [illegible]

[illegible] ... certo ... assignare ... Veluti consecrata ... [illegible]

... cap. ... can. ... 22 ... unica de ... baptismo ... Belarminus ... [illegible]

Durandus ... 4. ... q. ... alij quos refert ... Vicecomes ... art. ... [illegible]

... lib. 1. cap. ... = Ex quo descendit liquores herbarum vel aliarum rerum ... [illegible]

vi extrahuntur ... materia sacramenti baptismi, cum non sint aquae naturales, ... sed ... humores

... aqua rosacea, aqua ardens, ... vini ... de humore ... succo, ... aqua illa ...

... cadit, vel ex aliqua arbore distillat, ... non ... aqua naturalis, ...

et similiter ... aqua ... resolvit Soto, Suarez, Valentia, Belarminus ...

... Sa ... alij ... Tolet ... cap. ... licet ...

... contrarium ... [illegible]

No. 8

Denique ... baptismi ... animadvertendum

... [illegible] ... Valentia ... baptismi, de aqua ... aperta ...

... cap. ... de bapt. ... aqua vera et naturalis, ...

... non potest esse sufficiens materia huius sacramenti, sicut nec lacrimae, nec sudor, nec urina nec humor qui sangui-

na supernatat ... vera ... humor ... Contrarium ... observatur in illa ...

... aqua quae ex ... Christi latere lancea percusso exivit, in illa ... tanquam vera ... effectus baptismus ...

... de celebrat. missarum, et ... Angelicus Praeceptor ... q. ... art. 4. ad 3, quem sequuntur Soto, Silvester

Angelus, ... Candelabro aureo cap. de ... baptismi ... 7. ... ad valorem baptismi ... refert

... aqua sit naturalis, an miraculosa, sive de novo divina virtute creata, sufficit ... quod vera sit ... talis

... illa quae ex silice ... virga percussa miraculose manavit ... Caput ... numerorum, quo ...

Divus Joannes ... cap. 19. ... unus militum lancea latus eius aperuit, et ... exivit sanguis et aqua, et

qui vidit testimonium perhibuit et verum est testimonium eius, ... unica de summa Trinit. et fide catho-

lica, et ... Joannes ... canonica 1. ... cap. 5. ... tres sunt qui testimonium dant in terra spiritus, aqua,

et sanguis, et ... cap. ... de celebrat. missarum ... =

No. 9

... remota ... sacro baptismi, nunc de proxima, quae ... ipsa

aqua, ... applicatio, ... ablutio, ut cum Magistro in 4. dist. 3. docet ... Thomas ... q. ... art. ...

probatur ... Mathaei cap. ult. ibi baptizantes eos in nomine Patris, et Filij, et Spiritus Sancti, ...

ex Paulo ad Ephesios cap. 5. ... mundans eos lavacro aquae in verbo vitae, ... cap. ... de baptismo ...

... aqua ... probatur ... quia illa ... aliquis ...

forma ... huius sacramenti ... cadit immediate super aquam ... sed ... applicatam ... motum, ...

applicatam ... aqua, ut ...

... nullo modo ... baptizante ... vera ... forma

[illegible] Baptismo [illegible] quando [illegible] baptismus [illegible]
[illegible] demonstrare [illegible] fieri in aliis elementis [illegible] baptismi ad [illegible]
[illegible] Thomas [illegible]

Quanta debeat esse aqua ad baptismum requisita, et qua corporis parte aliqui debeat.

nº 10

[illegible] abluat, [illegible] aqua, quae [illegible] ad abluendum [illegible] debeat ad [illegible] ut docent [illegible] art. 4 [illegible] Galtus [illegible] quos refert et sequitur [illegible] requiritur [illegible] ad [illegible] abluendum, et [illegible] corporis partis qua ablutio fit [illegible] moraliter loquendo [illegible] debitus de baptismo [illegible] tradit [illegible] dist. 3ª q. unica art. 7º; [illegible] parva quantitas aquae [illegible] corporis ablueret, consequenter parva quantitas aquae, immo [illegible] sufficere ad bapt. ut [illegible] manuali cap. 22. nº 7º [illegible] Octavum [illegible] nº 4º [illegible] nº 16, [illegible] parva sit, ut ad successivam [illegible] quasi minutissimae aquae guttulae [illegible] sufficit ad [illegible] baptismi, [illegible] resolvit Diana [illegible] tractatu 3º resolut. [illegible] necessitatis potest [illegible] baptismus conferri, si maior quantitas [illegible] sit [illegible] dubia, data occasione baptismus sub conditione sit conferendus, ut [illegible]

nº 11

[illegible] hanc doctrinam duplex [illegible] difficultas. 1ª quod sicut minutissima particula panis [illegible] materia [illegible] ita et aquae minima guttula sufficiat ad valorem bapt. Secunda quae proponitur [illegible] Apostolorum [illegible] uno die [illegible] millia hominum baptizata fuisse, quae fieri non potuisse videbatur nisi per aspersionem [illegible] quomodo aqua benedicta in populum spargitur, et [illegible] [illegible] guttulae aquae [illegible] sufficientem [illegible] bapt. [illegible] [illegible] nec [illegible] obiectio, quia inter [illegible] versatur discrimen, [illegible] secunda quae [illegible] minima est particula [illegible] baptismi [illegible] aqua vera aqua, [illegible] moraliter loquendo [illegible] facere ablutionem, [illegible] loquendi modo ablutionem [illegible] aquae guttula quae [illegible] difficultas, [illegible] ab Apostolis, et [illegible] discipulis [illegible] aquae baptizatos, [illegible] possibile [illegible] et amplius [illegible] singulis [illegible] uno die baptizari, et [illegible] quanto [illegible] ab episcopo confirmari [illegible] non solus, sed plures essent ministri, seu discipuli Domini [illegible] baptizandis hominibus operam [illegible] ut advertit [illegible] art. 3º [illegible] Vasquez disp. 142 nº 32. [illegible] cap. 2. nº 2º [illegible] nº 4º [illegible]

Cui, vel quae pars capitis ablui debeat.

nº 12

[illegible] definitum [illegible] quae aquae quantitas sit necessaria baptismo, ita [illegible] quanta pars corporis ablui [illegible] debeat ut baptismus [illegible] censeatur, [illegible] baptismum valere [illegible] corporis ablutione, [illegible] caput ut [illegible] D. Thomas 3ª p. q. 66 art. 11. ad 4? [illegible] 4º sent. [illegible] q. 6 art. 1º [illegible] ad 3 [illegible] [illegible] 4ª, ratio est, nam cum hominis caput sit [illegible] corporis pars, [illegible] 44. ff. de religiosis et sumptibus funerum, ablutio [illegible] recte [illegible] loquendi modo [illegible] [illegible] corporis pars, velut manus, [illegible] solum abluatur, [illegible] Velasquez [illegible] et licet in hoc casu dicant [illegible] baptismum, [illegible] valere, quia ablutio [illegible] parvi [illegible] minima [illegible] ablutio, sicut et vera [illegible] aqua, et vera motio localis aquae [illegible]

Cornejo

[illegible]

Quando [illegible]

n.º 17

[illegible]

Cum aliqua [illegible] quamvis accidentia [illegible] ut albedo aut nigredo, denominent simpliciter [illegible] tamen [illegible] Vel orbus [illegible], Vel [illegible] nire solent, ut [illegible] ablui, tangi, [illegible] denominant [illegible] simpliciter; [illegible] ad [illegible] loquendi modus [illegible] ablui, ut notant Vasquez, [illegible], et [illegible] ad [illegible] valorem baptismi ex ablutione parvae partis corporis humani [illegible] controversiam [illegible] DD., [illegible] tam parva ablutione utendum, nisi tempore necessitatis, Veluti si dum puer nascitur ante totalem [illegible] periculum mortis immineat, quo in casu [illegible] periculo potest baptizari [illegible] [illegible] animadvertit ad valorem baptismi requiri ut aqua corpus tangat, [illegible] ablutio [illegible] valeat, [illegible] baptismus [illegible] si aqua tangat [illegible] vestes [illegible], Vel [illegible] ablutio [illegible] quo infans [illegible] quia proprie in corpore [illegible] cap. [illegible] c. qui in [illegible] 115. cap. [illegible] mulier [illegible] de consecrat. dist. 4. atque si arte et opera obstetricis possit aqua infantis [illegible] existentem [illegible], Valeret baptismus [illegible] 7. Verbo [illegible] 3.º [illegible] de bapt. n.º 31. [illegible] de baptismo n.º 23. [illegible] puncto 3.º n.º 25. [illegible] =

n.º 24

Nec in contrarium faciunt [illegible] relata in d. cap. qui in [illegible] 115 de consecrat. dist. 4. [illegible] baptizari [illegible], quia [illegible] adhuc [illegible] [illegible] infans [illegible] in utero [illegible] ablueretur [illegible] mater abluatur, [illegible] infans in [illegible] utero [illegible], [illegible] ita ut aqua [illegible] arte [illegible] possit, [illegible] ut ad valorem baptismi oportet [illegible] corpus habeat [illegible] anima ut docet [illegible] in d. cap. [illegible] de consecrat. dist. 4. [illegible] Vasquez d. disp. 145. n.º 81. [illegible] et alii [illegible] recenter natus [illegible] in pelle secundina, Vel [illegible] quia pellis illa [illegible] naturaliter [illegible], [illegible] dicitur [illegible] tanquam [illegible] humani corporis, [illegible] moraliter [illegible] [illegible] authores [illegible] Toletus in summa [illegible] cap. [illegible] et alii plures quos refert et sequitur Dominicus [illegible] puncto 3.º n.º [illegible] qui [illegible] docent validum [illegible] baptismum [illegible] [illegible] in flumen, vel [illegible] ubi [illegible] [illegible] ad [illegible] baptismi [illegible] forma [illegible] ut [illegible] infans [illegible] operam [illegible]. =

n.º ult.

[illegible] difficultatem [illegible] [illegible] [illegible] [illegible] quos [illegible] [illegible] aqua [illegible]

[illegible]

[illegible]

[illegible]

12

[illegible]

[illegible] Formam, [illegible] ex tecto, vel ex alio [illegible] loco [illegible] [illegible] adorent. [illegible]

Articulus 1.us de forma Sacramenti baptismi [illegible] cap. 7 [illegible] 30 cum aliis pluribus [illegible] libro [illegible] 4.

n.º 1.º — Licet in designanda forma [illegible] baptismi plura tradiderint scriptores, [illegible] [illegible] Bellarminus [illegible] de baptismo cap. 3. Valentia [illegible] 4. disp. 4. q. [illegible] Castro, [illegible] adversus haereses [illegible] baptismus [illegible] Tertullianus [illegible] [illegible] 142 [illegible]

Forma baptismi [illegible] — [illegible] Sacramenti [illegible] ex Catholicorum [illegible] doctrina [illegible] hanc esse veram et [illegible] formam, Ego te baptizo in nomine Patris et Filii et Spiritus Sancti, Amen [illegible] Domini Matthaei ultimo cap. 28. [illegible] in nomine Patris et Filii et Spiritus Sancti, [illegible] Florentino [illegible] Decreto de [illegible] de baptismo cap. 3. et 4. [illegible] 4. de baptismo [illegible] de summa Trinitate et fide Catholica [illegible] 30 [illegible] 45 [illegible] 82 [illegible] 83 [illegible] 86 ex pluribus aliis [illegible] Docent Bellarminus, Valentia, Vazquez, Castro, et [illegible] [illegible] Domini Matthaei [illegible] cap. 28. [illegible] formam veram [illegible]

n.º 2 — [illegible] in praedicta forma sacramenti baptismi quatuor [illegible] exprimantur [illegible] baptizandi, persona quae baptizat, et quae baptizatur, itemque [illegible] [illegible] Florentino, et [illegible] Domini Matthaei [illegible] in nomine [illegible]

De illo ministri, et de baptizandi [illegible]

[illegible] schismo

[illegible] Concilio Florentino [illegible]

[illegible] hujusmodi baptizandi formam [illegible]

Schisma [illegible] errorem [illegible] existimantes baptizatos [illegible] ex [illegible] efficaciam accipere [illegible], et proinde unusquisque diceret, Ego sum Cephae, Ego sum Pauli, quos [illegible] reprehendit 1a ad Corinthios cap. 1o dicens, numquid Christus [illegible] [illegible]

[illegible] 47 [illegible] D. Thom. [illegible] ut nullus baptizaret dicens Ego te baptizo, sed diceret baptizatur servus Dei in nomine Patris, et Filii, et Spiritus Sancti, ne minister modo aliquo verbis ostenderet se authorem baptismi; [illegible]

[illegible] baptizent [illegible] baptizantes [illegible] forma [illegible]

[illegible] Concilii [illegible] cap. 4o [illegible] forma [illegible] baptizant [illegible] Florentinus [illegible]

no. 4

[illegible] formam [illegible] baptizandi [illegible] Concilio Florentino [illegible]

[illegible] Trinitatis [illegible] minister [illegible]

[illegible] in nomine Patris, et Filii et Spiritus Sancti [illegible]

[illegible]

no. 5

[illegible] in nomine Patris, et Filii, et Spiritus Sancti [illegible] Ego te baptizo [illegible]

[illegible]

Quindecim [illegible] Patres [illegible] introducere [illegible] Sancta [illegible] te baptizo [illegible] sufficere [illegible] equivalentia, ut [illegible] aut nemo adhuc [illegible] necessario [illegible] valorem baptismi, [illegible] de [illegible] ut [illegible] [illegible] valet [illegible] forma [illegible], [illegible] indicativo vel [illegible] modo [illegible] [illegible] vel [illegible] baptizo [illegible] [illegible], aut [illegible] [illegible] [illegible] conferatur baptismus, [illegible] forma [illegible] sufficiens [illegible] valida [illegible] apud Græcos [illegible] [illegible] valide [illegible], nihilominus peccaret mortaliter [illegible] forma [illegible] [illegible] in Sacramento, [illegible] [illegible] ut [illegible] baptismo docent [illegible] [illegible] Deo [illegible] [illegible] de personis [illegible]

Num. 6.

Succedit [illegible] impedimentum, nempe de persona quæ baptizat, utrum per se [illegible] debeat exprimi, quando [illegible] [illegible] necessario exprimendum [illegible] pronomen Ego, sed [illegible] significetur a baptizante per te baptizo, vel aliud equivalens modo [illegible] explicato, [illegible] [illegible] ubi [illegible] Zacharias [illegible] valere baptismum [illegible] hac forma baptizato, [illegible] omisso pronomine Ego [illegible] baptismum ut tradit D. Thomas 3. p. q. 66 art. 5. ad 2., quia sufficienter comprehenditur verbo baptizo indicativo, [illegible] ut in forma Græcorum, [illegible] 1a. §. quinque ff. de heredibus instituendis, ubi nihil refert dicatur heres mihi esto, an heres esto; [illegible] stipulatione [illegible] §. [illegible] in fine ff. de [illegible] nihil interest [illegible] mihi habere licere, ut eleganter tradit [illegible] [illegible] exemplis [illegible] [illegible] art. [illegible] [illegible] sufficiens [illegible] cap. [illegible] [illegible] cap. de forma n. [illegible] [illegible] animadvertit [illegible] exprimendum pronomen in la forma Ego te baptizo, veniale peccatum omittere, nisi magnum [illegible] scandalum, vel [illegible] [illegible] forma Græcorum, [illegible] gravis est, [illegible] mutatio, [illegible] peccatum mortale omittere [illegible] doctrina [illegible] [illegible] Thomistic [illegible] [illegible] =

Num. 7.

Si [illegible] [illegible] de persona [illegible] baptizatur denotata [illegible] pronomen [illegible] [illegible] apud Græcos, [illegible] expressionem requiri ad essentiam [illegible] formæ, [illegible] [illegible] docent, [illegible] cap. [illegible] de baptismo, [illegible] [illegible] Matthæi [illegible] cap. 28. ibi baptizantes eos in nomine Patris, et Filii, et Spiritus Sancti [illegible] [illegible] volunt [illegible] baptizat [illegible] significationi [illegible] [illegible] baptizarentur, [illegible] [illegible] [illegible] [illegible] quia [illegible] [illegible] baptizatur [illegible] [illegible] significet [illegible] baptizandus [illegible] et determinate [illegible] [illegible] indifferenter et indeterminate, [illegible] sufficit [illegible] [illegible] baptizaverit [illegible] determinate, [illegible] forma [illegible] ut [illegible] baptizandi terminate denotetur, accedit [illegible] [illegible] deciderit et [illegible] [illegible] baptizantem, et baptizatum, [illegible] [illegible] baptizare [illegible] [illegible] debitis [illegible] [illegible] [illegible] [illegible] refert [illegible] [illegible] [illegible] Florentini decreto [illegible] §. 17 [illegible] [illegible] sufficere [illegible] [illegible] [illegible] [illegible] baptizati exprimatur, [illegible] [illegible] [illegible] [illegible] Græci [illegible] [illegible] baptizandi [illegible] [illegible] baptizat, [illegible] [illegible] [illegible] [illegible] [illegible] nihil [illegible] [illegible] pronomen baptizati [illegible] [illegible] exprimeretur. =

De persona quæ baptizat [illegible]

De casis per [illegible] baptizabatur [illegible]

[illegible] Florentinus Decretum.

[illegible] n.º 8.

Quod [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] personarum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Trinitatis [illegible] [illegible] [illegible] [illegible] [illegible] metaphysicis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 3 [illegible] resolut. moral. tract. 4. resolut. 6.

n.º 9

De expressione personarum Sanctissimae Trinitatis.

Quarta denique [illegible] a [illegible] invocatione trium personarum Sanctissimae Trinitatis, an [illegible] nomine invocatio ad valorem baptismi debeat esse explicita, an sufficiat implicita, velut si [illegible] [illegible] in nomine Trinitatis, vel in nomine Dei, vel [illegible] personae expressione, veluti in nomine Patris, vel in nomine [illegible], [illegible] [illegible] constanter affirmamus de essentia formae baptismi esse ut [illegible] [illegible] atque [illegible] nominentur tres personae Trinitatis [illegible] distinctis [illegible]. [illegible] probatur hoc ex [illegible] [illegible] cap. 28 divi Mathei, ubi formam baptizandi [illegible] [illegible], [illegible] [illegible] ut [illegible] baptizarent in nomine Patris et Filii, et Spiritus Sancti, non [illegible] nomine [illegible] significat [illegible] aut fide, sed [illegible] baptismus dandus sit nominando, et [illegible] invocando Patris, et Filii, et Spiritus Sancti. [illegible] ex cap. [illegible] 9. de consecrat. d. 4. ubi baptismus [illegible] in nomine [illegible] [illegible], quia [illegible] [illegible] in mortem [illegible] baptizata, sed baptizantes [illegible] in nomine Patris, et Filii, et Spiritus Sancti, [illegible] [illegible] [illegible] 4. [illegible] [illegible] de Trinitate [illegible] in baptismo [illegible] nominaverit, [illegible] omiserit illud baptisma verum esse [illegible]. [illegible] de bapt. [illegible] de [illegible] Trinitate et fide catholica [illegible] [illegible] baptismus sit sacramentum fidei, [illegible] in lege [illegible] cap. [illegible] [illegible] baptismo, cap. [illegible] de [illegible] [illegible] 76 de consecrat. d. 4. [illegible] cap. 7. oportet [illegible] [illegible] externa fidei professio, quae in bapt. fit correspondeat fidei internae, sed in nova lege [illegible] debet habere fidem [illegible] personarum [illegible], [illegible] fidei explicita professio [illegible] debet [illegible]. [illegible] [illegible] Thomas [illegible] art. 6. [illegible] [illegible] [illegible] [illegible], plures [illegible] Patres [illegible] Belarminus de bapt. cap. [illegible] [illegible] divus Basilius [illegible] de Spiritu Sancto cap. [illegible] sicut credimus in Patrem et Filium et Spiritum Sanctum, [illegible] baptizamur in nomine Patris, et Filii, et Spiritus Sancti [illegible].

n.º 10

[illegible] [illegible] [illegible] [illegible] [illegible] difficultatem [illegible] [illegible] videtur ex Concilio Florentino in decreto [illegible] [illegible] [illegible] decernit baptismum [illegible] in divinae Trinitatis invocatione expressione [illegible] [illegible], sed facile [illegible] si dicamus decretum [illegible] potius probare [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut [illegible] baptizandi [illegible] [illegible] Trinitatis invocatione, [illegible] Trinitatis nomine [illegible] [illegible] [illegible] [illegible] facta, [illegible] ter [illegible] [illegible] Concilii [illegible] [illegible] [illegible] [illegible] [illegible] Trinitatis [illegible] in nomine Patris, et Filii, et Spiritus Sancti [illegible] Sanctae Trinitatis [illegible] [illegible] intelligendae de Trinitate eodem modo invocata [illegible] expresse [illegible] [illegible].

Quod [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Marginalia: [illegible] — Baptismus invalidus [illegible] — [illegible]

[illegible]

n.º 11

[illegible] ... [illegible]

rebaptizarat dist.ª ubi cum P. Nicolaus asserit de baptizatis ... [illegible] ... a quodam ... [illegible] ... trinitatis asserit baptizatos in sanctissimae Trinitatis, vel tantum in nomine [illegible] ... ex quo emergit difficultas, cum quatenus P. admittat et judicat validum baptismum in Trinitate ... [illegible] ... baptismum collatum in nomine Trinitatis, et celebratum tantum in nomine Christi, ita ut ... [illegible] ... valide ... reiterari. Est tamen facile ... si dicamus ... in Trinitatis nomine intelligi ... explicite, et distincte ... tres personas, quemadmodum intelligimus in ... [illegible] velata. = [illegible] difficultas [illegible] ... que dissolut varia tradidit scriptores ut ... qui docent Enriquez, Belarminus, et ... [illegible] ... illi ... verius dicamus in p̃dicto ... nihil statuisse ... bapt. celebrari solummodo in nomine ... sed tantum ... ulterius ultra interrogata rebaptizare, quippe ... seu Consultatio ... proposita duntaxat de baptismo in nomine Trinitatis a quodam ... vel ... collato, et ad eam respondit P. ... modi baptismum reiterandum, id quidem ... valor ... pendet a conditione, vel ... sequentia ... dicamus, quem ... habuisset ... tanquam ... referendo ... Divus Thomas ... q. 66 art. 6 ... q. unica art. 6. ... cap. ... 77 ... Ecclesiastica Hierarchia ... § 4 ... n.º 10 ... Bonacina, et alii plures quos refert ... Hurtado de ... disp. 2.ª diff. 9. et ... de ... baptismi art. 5. n.º 3 ... =

n.º 12

Hic inquirendum venit utrum baptismus collatus ... [illegible] ... in nomine genitoris, geniti, et procedentis ab utroque, sit validus. quam ... duplex ... altera affirmativa, altera negativa. affirmativam ... antiquiores ... [illegible] ... et ... synonoma, et equivalentia videntur, ... [illegible] ... negativam ... baptismus sub predicta forma invalidus ... [illegible] ... Armenos ... nos baptizari in nomine genitoris, et geniti, nec ... sed in nomine Patris, et Filii, et Spiritus Sancti amen, ... quia licet ... geniti, et procedentis ab utroque ... divinas personas ... significant ... principaliter ... sed solum ... quorum ... relationes patris, et filii et ... [illegible] ... D. Thomas ... q. 66 art. ... ad 77 ... = Nec refragatur ... quoniam ... synonoma ... forma, ... pater, nec genitus quod filius ut ... volunt, ... nominibus ... significat, nec ... ut ... baptizare ... Egidius de ... n.º 56 ... affirmant =

Cum[illegible]

n.º 13 [illegible] forma [illegible] [illegible]

materia [illegible] filiationis [illegible] Spiritus Sancti [illegible] idest ut [illegible]

[illegible] forma, invaliditur baptismus [illegible] [illegible] [illegible]

[illegible] omissio [illegible] [illegible] [illegible] [illegible]

forma [illegible] [illegible] [illegible] [illegible]

nam D. Th. [illegible] art. [illegible] 3. quem sequuntur Sinaldus, Bonacina, [illegible] [illegible] [illegible]

occurrit [illegible] [illegible] [illegible] dicimus illius mutationem [illegible] [illegible] [illegible]

nostra cura valore baptismi, [illegible] [illegible] [illegible] [illegible] vel [illegible] significat.

[illegible] dicatur [illegible] te [illegible] [illegible] [illegible] [illegible] [illegible] baptizo te

intendo te baptizare, aut abluere, [illegible] enim mutaretur [illegible] [illegible] forma [illegible]

ablutionem, ut inter allios docet Bonacina [illegible] d.º puncto 4.º n.º 17. [illegible] [illegible]

illius omissio vitiat baptismum [illegible] Dni Mathei d.º cap. 8. [illegible] baptizo [illegible] baptismo [illegible]

necessaria expressio personae baptizatae, quae sit diversa a ministro, [illegible] significat pronomen [illegible] vel appellativum

baptizati, ut si dicatur baptizo te Petrum, Paulum, aut demonstratiue, ut docet D. Thomas q. 66. art. 5. ad 4.um cum

inter allia affirmat invalide baptizari dicentem ego me baptizo nam [illegible] forma [illegible] distinctio, et diversitas

inter baptizantem, et baptizatum, ut opus est, ut diximus. =

n.º 14 Hic inquirendum venit utrum si aliqui plures homines simul [illegible] sufficiat ad valorem [illegible] simul dicere Ego baptizo vos in nomine Patris, et Filij, et Spiritus Sancti, [illegible] de beat

ad singulos formam dirigere unusquisque, ut singulus formis baptizandos [illegible] [illegible] [illegible]

[illegible] baptizari [illegible] baptismus [illegible] [illegible] ego vos baptizo [illegible] [illegible] vos te baptizamus

[illegible] particulariter baptizantibus, invalidus est baptismus. [illegible] diversitatis [illegible] [illegible] mutatur [illegible] forma

cum idem sit dicere Ego vos baptizo ac dicere baptizo te, et te, atque ita tot [illegible] [illegible] quot sunt [illegible]

[illegible] mutatur [illegible] verbum forma, et dicendum quod Ego, [illegible] baptizamus, [illegible] invalidus est [illegible]

[illegible] [illegible] formam profert, [illegible] dicendo Ego te baptizo [illegible] nos te baptizamus [illegible] [illegible]

[illegible] [illegible] alter [illegible] [illegible] duo simul unum baptizaverint [illegible] uterque [illegible]

[illegible] profert dicens nos te baptizamus, similiter erit invalidus baptismus, quia [illegible] intendunt bap

tizare ut causae partiales [illegible] agunt ut iam diximus, [illegible] intendunt baptizare ut causae totales simul [illegible] agunt

cum forma [illegible] [illegible] quisque dicere deberet ego te baptizo. [illegible] simul [illegible] baptismus

a duobus [illegible] forma [illegible] quolibet [illegible] ego te baptizo [illegible] [illegible] unusquisque

intendit baptizare ut causa partialis, et dependenter ab intentione alterius [illegible] valere baptismum [illegible] [illegible]

quando [illegible] forma significet, [illegible] unusquisque [illegible] deberet baptizare independenter ab alterius intentione

valide [illegible] baptismus, [illegible] debita forma, [illegible] intentio ministri [illegible] baptismo [illegible]

[illegible] simul forma [illegible] simul, [illegible] [illegible] [illegible] [illegible]

[illegible] dicitur iterare baptizare, [illegible] baptizaret [illegible] [illegible] totam formam proferet [illegible]

[illegible] baptizatus [illegible] [illegible] D. Thom. [illegible] relatus a Dicast. [illegible] [illegible] 4. [illegible]

n.º 15 Succedit [illegible] [illegible] [illegible] ad essentiam formae baptismi [illegible]

[illegible] Theologorum [illegible] [illegible] [illegible] quia [illegible] [illegible] [illegible] [illegible]

[illegible] et Trinitatis personarum [illegible] in dicendo in nomine, authoritate et potestate [illegible] Dei in tribus per

sonis existentis [illegible] invocationem explicite, atque ideo illius partialis in nomine omissio baptizat [illegible]

[illegible] pars substantialis formae, [illegible] baptismus [illegible] explicite Trinitas personarum, [illegible]

dicendo in nomine [illegible] in Virtute aut authoritate [illegible] [illegible]

[illegible] clausula significantur. Quam obrem [illegible] [illegible] nomen [illegible]

[illegible] alio subrogato nomine valde dubius maneret baptismus [illegible]

[illegible] continuo [illegible] in nomine Patris, in nomine Filij [illegible]

Spiritus Sancti, [illegible] nec deuenit [illegible]

[illegible] Quemadmodum [illegible] diceretur [illegible]

[illegible] eodem modo [illegible]

[illegible] sed diuersis [illegible]

[illegible] D. Thomas [illegible]

[illegible] Suarez, Vasquez, Bonacina et Vasq. [illegible] —

n. 15. Eiusdem [illegible] baptismus [illegible] cap. 20

Filio et Spiritu Sancto, valeret [illegible] et Filio et Spiritui Sancto, quia [illegible] in expedimentum

[illegible] valeret si aliquod formae addatur repugnans Fidei [illegible] Veluti [illegible] diceretur

patris maioris, Filij minoris, Spiritus Sancti minimi, [illegible] opponitur [illegible] formae, ut [illegible]

tradit Toletus in summa lib. 2 cap. 19. n. 6. at vero si diceretur in nomine Patris omnipotentis, Filij [illegible]

[illegible] et Spiritus Sancti paracliti, valeret utique baptismus, nam [illegible] forma minime alteratur, [illegible]

[illegible] Spiritus Sancti diceretur solummodo Spiritus paracliti adhuc valeret [illegible] [illegible]

si particula Sancti [illegible] omitteretur, quia [illegible] absque Sancto [illegible] nomen proprium [illegible] Spiritus

Sancto, [illegible] nomines, [illegible] ut [illegible]

Bonacina [illegible] 4. n. 13. et Vasquez [illegible] 144 [illegible] ubi plures refert — [illegible]

[illegible] forma interueniat in prolatione, seu expressione personarum, cum [illegible] formae significati, [illegible]

[illegible] valeret baptismus, velut [illegible] latini sermonis [illegible] ut [illegible] dicatur [illegible]

baptizo in nomine Patria, et Filia, et Spiritua Sancta [illegible] 86. [illegible]

[illegible] tradit Spondanus [illegible] Baronij anno Christi 744 n. 2 [illegible] —

n. vlto. Superest inquirere quid dicendum sit de dictionibus et, et Amen, quae

[illegible] aliqui [illegible] omittere baptismus [illegible]

quae omissa sit, quia [illegible] nec [illegible]

[illegible] ut tradunt Bonacina [illegible] 16, et 20. [illegible] cap. 2. ad [illegible]

[illegible] baptismus [illegible] nihil refert ad valorem baptismi [illegible]

[illegible] quaelibet [illegible] forma [illegible] baptismus [illegible]

[illegible] sed quod [illegible] debet baptismus in [illegible] lingua latina [illegible]

[illegible] forma [illegible]

[illegible] aut [illegible] baptismus [illegible]

[illegible] Vmus:

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

= Quod baptismi [illegible] =

= quentibus [illegible] =

Cum [illegible] debit [illegible] ut tradit [illegible] in Concilio Florentino in decreto de [illegible] [illegible] quod [illegible] baptismi [illegible] decretum [illegible] [illegible] S. Hieronymus [illegible] Bellarminus [illegible] cap. 7. [illegible] in 4. d. 4. q. unica [illegible] articulo [illegible] cap. [illegible] [illegible] q. 43. [illegible] 4. [illegible] 4 [illegible] Tolet [illegible] Catechismi Romani [illegible] cap. 2. de baptismo § 18 [illegible] ministros [illegible] Sacerdotes [illegible] in triplici differentia [illegible] ordinarios [illegible] solemniter [illegible] ex officio [illegible] baptizandi ministerium; alij extraordinarij [illegible] alij denique qui dicuntur necessitatis, qui [illegible] baptizare [illegible] solemnibus Ceremonijs, quippe a quolibet homine ministerij [illegible] baptismus [illegible] ut tradit D. Aug. lib. 2. [illegible] Parmenianum cap. 13. [illegible] de consecratione d. [illegible] de quibus [illegible] articulo agendum est =

Itaque in primis de ordinario ministro [illegible] solemniter [illegible]

2.

Affirmamusque hoc ordinarium ministrum [illegible] baptismi esse [illegible] et Sacerdotes, quibus [illegible] jure suo, [illegible] extraordinaria aliqua potestate hoc munus exerceant, [illegible] ab Apostolis [illegible] baptizarent Mathaei c. 28. ibi: [illegible] baptizate omnes [illegible] in nomine Patris, et Filij, et Spiritus Sancti, [illegible] asserit ex [illegible] Florentino loco [illegible] [illegible] 19. Galij, [illegible] d. 4. [illegible] diaconus [illegible] de consecr. d. [illegible] [illegible] sacerdotes [illegible] ordinarij ministri [illegible] [illegible] q. 67. art. 2. [illegible] Apostolicum cap. 11. [illegible] reliquos [illegible] Clericos potestatem baptizandi [illegible] ut [illegible] ministri [illegible] [illegible] ministrantibus Diaconis. [illegible] Florentino [illegible] sacerdotes [illegible] Apostolos [illegible] cap. 20, [illegible] pertinet [illegible] baptismum [illegible] [illegible] art. 2. [illegible] 23 [illegible] Vasquez [illegible] q. 67. art. 2. art. 7 [illegible] =

3.

[illegible] cap. 5. [illegible] Mathaei [illegible] Apostolis docere [illegible] atque baptizare, docere [illegible] perficere [illegible] Dionysius de Ecclesiastica Hierarchia cap. 5. [illegible] [illegible] baptizare [illegible] [illegible] [illegible] S. Hieronymus in dialogo [illegible] Luciferianos, et Tertullianus in lib. de baptismo cap. 17. [illegible] baptizandi [illegible] esse [illegible] presbyteri, [illegible] diaconi [illegible] [illegible] solemniter baptizandi [illegible] Sacerdotibus [illegible] parochis [illegible] [illegible] potestatem [illegible] sacerdotes [illegible] [illegible] exercere [illegible] parochianis [illegible] baptismi administrationem exercere [illegible] sacerdotibus [illegible] facultate [illegible]

[illegible] = D[illegible] [illegible] et [illegible] [illegible] per [illegible]

de illis, quibus nec parrochia, nec [illegible] in parochianos datae, quibus [illegible] licite [illegible]

[illegible] omni [illegible], quam [illegible] explicite data a [illegible] supremo pastore [illegible] exercere [illegible]

[illegible] ut tradit [illegible] [illegible] baptismo [illegible]. [illegible] nuper dicebam

omnibus docendi, [illegible] et [illegible] apostolis data, [illegible] licet [illegible]

[illegible] exercere [illegible] celebrationis [illegible], [illegible]

[illegible] exercere [illegible] [illegible]

[illegible] =

Huic doctrinae [illegible] sacerdotes [illegible]

n. 4 — [illegible] D. Isidorus docet baptismum [illegible] sacerdotibus [illegible] [illegible] a diaconis [illegible]

dotes hoc ministerium baptizandi exercent [illegible] nulla [illegible] conveniente cum [illegible], nec parrochialitate. [illegible]

[illegible] [illegible] [illegible] intelligi debent [illegible] sacerdotibus [illegible] in [illegible]

ordinat[illegible] [illegible] [illegible] [illegible] [illegible] et [illegible], sed quod ex ordinatione [illegible]

[illegible] ordinationi [illegible] [illegible] [illegible] [illegible], quod [illegible] sacerdotibus

in parochos et ordinarios pastores eliguntur, aut [illegible] ex [illegible] baptizandi munus ordinarie [illegible] ut tradit [illegible]

[illegible] cap. 3 n. 17. = [illegible] intelligendum [illegible] Florentinum [illegible],

[illegible] sacerdos, cui ex officio [illegible] baptizare, ubi [illegible] sacerdotis quemcumque sacerdotem

[illegible], [illegible] quicumque ex officio spectat baptizare [illegible], sed [illegible] baptizare [illegible]

[illegible] ex munere [illegible] [illegible] spectare, [illegible] sacerdotem [illegible] debere regulariter baptizare [illegible] parro-

[illegible] vel de licentia [illegible], vel [illegible] superioris, [illegible]

[illegible] parrochialibus debere [illegible] [illegible] 16 [illegible]

[illegible] tradunt [illegible] [illegible] baptismus [illegible], et D. Thomas [illegible] art. 2 et 4 [illegible]

n. 5 — Nec quidquam obstare [illegible] Trid. [illegible] cap. 7 [illegible]

[illegible] sacerdotes [illegible] ordinarios, [illegible] nullius est momenti, [illegible]

[illegible] baptismus [illegible] fiat, [illegible] comparatio [illegible] [illegible]

[illegible] peccatis, [illegible] baptizare [illegible] determinat [illegible]

[illegible] minister baptismi nullam [illegible] habet in Catechumenos ante baptismum [illegible]

[illegible] in [illegible] baptizatos, [illegible] catechumenos [illegible]

[illegible] valet ad Corpus [illegible], [illegible]

in Universali [illegible], [illegible] parochus in parrochia, [illegible]

[illegible] baptizatos [illegible] fideles = sed adhuc [illegible] [illegible], [illegible]

[illegible] sacerdotes, aut alios Clericos, [illegible] viros aut feminas [illegible] valide baptizare [illegible]

[illegible], [illegible] baptismum quemcumque [illegible] quamvis nullam habeant [illegible]

fideles, [illegible] sacramentum, [illegible] valide, [illegible]

[illegible] baptizatos [illegible], [illegible] valide [illegible] baptizandi [illegible] fideles

[illegible] author [illegible] sacramenti [illegible] ut quicumque [illegible] valide

[illegible] baptismi [illegible] extra [illegible] necessitatis, [illegible] valide, sed [illegible]

ter [illegible] peccaverit [illegible] haberet [illegible] fidelis [illegible] =

De ministro extraord. — n. 6 — Hoc de ministro ordinario sufficiant, nunc de extraordinario, [illegible]

[illegible] baptizare [illegible] Diaconus [illegible], nec ex [illegible], [illegible]

[illegible] administrare valide [illegible], [illegible] D. [illegible] docet [illegible]

[illegible] necessitatis [illegible], vel [illegible] ultimae necessitatis [illegible]

[illegible]

[illegible]

[illegible] ... [illegible]

barium [illegible] Tridentino [illegible] ministerio [illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible] nec diaconos [illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible] =

[illegible]

[illegible] ... [illegible] ministrare [illegible] ... [illegible]

[illegible] diaconos [illegible] ... [illegible]

ordinationis independenter a parocho [illegible] baptizandi exerceret [illegible] = [illegible] ... [illegible]

[illegible] ... [illegible] inter diaconum [illegible] ... [illegible]

[illegible] in parochiis [illegible] sacerdos [illegible] simplex [illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible] periculo mortis [illegible] necessitate [illegible] ... [illegible]

[illegible] ... [illegible] parocho [illegible] diacono [illegible] ... [illegible]

[illegible] baptizare ex [illegible] parochi [illegible] aliqua [illegible] necessitate [illegible] ... [illegible]

[illegible] ... [illegible] = Nec [illegible] obstat [illegible] ... [illegible] Romani [illegible] ... [illegible]

[illegible] diacono [illegible] ... [illegible] a parocho [illegible] ... [illegible]

[illegible] diaconos [illegible] ... [illegible]

[illegible] Gelasius [illegible] diaconos [illegible]

[illegible] ... [illegible] ubi [illegible] diaconos [illegible] ... [illegible]

me ministerium absque [illegible] vel presbitero [illegible] absque [illegible] authoritate [illegible] ... [illegible]

[illegible] extrema necessitas [illegible] laicis fidelibus facere [illegible] permittitur [illegible] ... [illegible]

[illegible] salutem decedat [illegible] nihil aut parum differt diaconus a laicis [illegible] baptizandi [illegible]

[illegible] ... [illegible] de solemni [illegible] ... [illegible]

[illegible] absque [illegible] parochi [illegible] tunc enim licet [illegible] diaconus [illegible] ... [illegible]

[illegible] laicus [illegible] ... [illegible] decedat [illegible] necessitate

urgente [illegible] diacono [illegible] ... [illegible] diaconos absque licentia [illegible] vel [illegible]

[illegible] necessitatis baptizare [illegible] necessitate [illegible] irregulares [illegible] docent [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible] ut docent [illegible] ... [illegible]

[illegible] ... [illegible] in diacono [illegible] requiri [illegible] extrema necessitas [illegible] ... [illegible]

[illegible] ... [illegible] parochi [illegible] ... [illegible]

[illegible] ... [illegible] =

[illegible] ... [illegible]

[illegible] ... [illegible] presbitero [illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] baptizat [illegible] diacono [illegible] ... [illegible] baptizati [illegible]

[illegible]

n.º 10. [illegible]

[illegible] ... mulier, immo et paganus [illegible] dummodo formam servet ecclesiae, et facere intendat quod facit ecclesia, ex Trid. sess. 7. can. 4.º ubi [illegible] dixerit baptismum qui etiam datur ab haereticis in nomine Patris, et Filii, et Spiritus Sancti cum intentione faciendi quod facit ecclesia, non esse verum baptismum, anathema sit. Nec [illegible] assertio manet [illegible] baptismum instituit [illegible] in [illegible], [illegible] peccato [illegible] [illegible] requireretur, et quemadmodum [illegible] et [illegible] est [illegible], ita et mulier [illegible] et quilibet potest illum ministrare instante necessitate. Ita tradit D. Thomas 3. p. q. 67. art. 4. [illegible] Suarez [illegible] disp. 23. sect. 2. [illegible] disp. 31. sect. 5. [illegible] disp. 147 art. 1. [illegible] cap. 7.º Navarrus in manuali cap. 22 n.º 6. [illegible] et alii plures, quos refert [illegible] 2 vol. moral. tract. 13. resolut. 46. et [illegible] tract. 29. resolut. 86 [illegible] =

n.º 11 Sed contra hanc veritatem doctrinam [illegible] videtur [illegible]

[illegible] ignorantes [illegible] baptizetur, deberent ab eo baptizari [illegible] baptizari, quibus plane ostenditur ad valorem baptismi desiderari, ut qui baptizat sit [illegible] baptizatus, [illegible] et ideo iterandum, ac [illegible] paganus, et infidelis [illegible] debet [illegible] difficultas adeo gravis est, ut in multis [illegible] tradiderint [illegible] dicant [illegible] sub nomine Isidori [illegible] in [illegible], illud tamen [illegible] in illis nihil definitur, sed dumtaxat quaestio proponitur per interrogationem, [illegible] recitatur [illegible] falsa opinio, quaestioni [illegible] respondit ex propria [illegible] in [illegible] immediate in dextera [illegible] talia [illegible] sed Romanus Pontifex [illegible] judicat qui baptizat [illegible] spiritus Dei ministrare gratiam baptismi paganus sit qui baptizat, [illegible] referuntur in cap. Romanus 23. [illegible] de consecrat. dist. 4 [illegible] aperte docet etiam paganum valide baptizare. [illegible] doctrina [illegible] capitularis cap. 4.º [illegible] sententia [illegible] scribit, [illegible] baptizatus a presbytero [illegible] baptizato, [illegible] Sanctae Trinitatis [illegible] baptismo [illegible] fuit baptizatus, sicut Sergius Papa dixit, atque ita [illegible] Isidorus [illegible] atque docuit [illegible] a presbytero [illegible] baptizato, sed [illegible] a Sergio Pontifice definit. =

n.º 12 [illegible] doctrina [illegible] videtur [illegible]

[illegible] quos a pagani [illegible] de consecrat. dist. 4. [illegible] quos a pagano baptizatos [illegible] habet [illegible] mandamus. [illegible] aperte [illegible]

[illegible] a paganis [illegible] dist. 4 [illegible]

[illegible] baptizare [illegible] Christi [illegible] baptizandi [illegible]
[illegible] in nomine [illegible] baptizare [illegible]
[illegible] baptizare [illegible] baptizatum [illegible]
[illegible] in nomine Trinitatis [illegible]
[illegible] Trinitatis [illegible] Patris et Filii [illegible]
[illegible]
[illegible] Bellarminus [illegible] cap. 7. [illegible]
[illegible] de baptismo disp. [illegible]

n.º 15

[illegible] recepta [illegible]
[illegible] mulierem rite baptizare [illegible] Carthaginense 4.º can. [illegible] verba
[illegible] mulier quamvis docta et sancta viros in conventu docere [illegible]
baptizare [illegible] ex quibus aperte colligi videtur mulierem etiam doctam et sanctam ex Christi domini [illegible]
[illegible] ministri baptismi validi [illegible] tradita = Sed facile [illegible] solvitur haec difficultas [illegible]
nec probari nec colligi mulierem non posse valide baptizare quodcumque tempore [illegible] sed dumtaxat [illegible]
ne mulier extra articulum necessitatis baptizet, vel etiam urgente necessitate existentibus [illegible] ministris, ita [illegible]
vertit [illegible] et post illum ordinarii [illegible] et Bellarminus [illegible] 1.º de Baptismo cap. 7.º in necessitate et periculo mortis mulier non solum valide, verum etiam licite baptizat ut [illegible] quibus [illegible]
sit [illegible] recepta femina [illegible] in nomine Trinitatis baptizaverit [illegible]
casu accipiendi et intelligendi [illegible] Divi Clementis [illegible] Apostolicarum cap. 9, et Tertulliani de [illegible]
cap. 41. et de baptismo cap. 17. nec non Epiphanii [illegible] 42, [illegible] difficiles [illegible] ut [illegible] Bellarminus, Suarez,
Vasquez, et alii [illegible] =

n.º 14

Hinc observandus venit [illegible] baptizandi in casu
necessitatis extremae hunc ordinem servandum esse, ut [illegible] vel presbytero [illegible] baptizet diaconus, [illegible] diacono
baptizet clericus inferior, nec laicus, [illegible] minor [illegible] oportere ut laicus [illegible] baptizet, nec [illegible]
femina, nec [illegible] baptizato alteri [illegible] baptizatus, aut haereticus, vel apostata, et quidem ita [illegible]
tera paria sint, [illegible] quam [illegible] ordo [illegible] sacerdos [illegible]
aut imperitiam rite baptismum ministrare, aut nollit nisi accepta pecunia [illegible] baptismi, tunc inferior et [illegible] laicus
aut mulier baptizare potest et debet, [illegible] inferior, veluti si sit obstetrix quae melius sciat modum
et formam baptizandi, aut si baptizandus [illegible] at [illegible] deceat viros [illegible]
[illegible] docent Soto in 4.º d. 4. q. unica art. 2.º, Navarrus in manuali cap. 22. [illegible] de ministro baptismi
n.º 7. qui affirmant [illegible] parrocho, cui ex officio [illegible] baptizare, sacerdotes, diaconus, vel laicus, aut quemlibet alium
inferiorem absque [illegible] baptizantes culpam lethalem [illegible] quamvis parochus [illegible]
[illegible] ut inferiores baptizent, nisi delegatus [illegible] quam doctrinam [illegible]
4. [illegible] resolut. 4. [illegible] licet [illegible]
[illegible] ministrante, [illegible] solemniter baptizare [illegible]
ordinis, quam habet ex [illegible] auctores =

n.º 15

Quod si [illegible] diacono alius inferior in necessitate [illegible] baptizare [illegible]
etiam solemniter, [illegible] diacono [illegible] ordinationis

[margin:] [illegible] feriae [illegible] mulier [illegible]

[margin:] [illegible] baptizare [illegible] diacono.

6

[illegible] baptizare, nisi [illegible] sacerdote [illegible] [illegible] & [illegible]

inferioribus clericis vel laicis, nemo [illegible] accidentaliter [illegible] majoris [illegible]

[illegible] inferioribus Clericis, [illegible] [illegible] [illegible]

[illegible] immo magis militet [illegible] minori ordine [illegible] [illegible]

[illegible] [illegible] veniale [illegible] peccatum [illegible]

illius [illegible] vel Hereticus [illegible] [illegible]

ut docent [illegible] 4. §. 11. [illegible] 29. §. 2. [illegible]

[illegible] animadvertit [illegible] baptizando [illegible] [illegible] necessitatis [illegible]

[illegible] baptizavit, [illegible] extra necessitatem [illegible] fecerit [illegible]

[illegible] irregularitatibus [illegible] immo [illegible] baptizaverit extra

[illegible] filium [illegible] baptizari [illegible] unica [illegible]

[illegible] tradit Josephus Vicecomes [illegible] de antiquis baptismi ritibus et ceremoniis [illegible] cap. 27 [illegible]

n.° 16

[illegible] de patre [illegible]

[illegible] Bapt. valeat, et peccatum [illegible] [illegible] [illegible] filius [illegible] legitimus [illegible]

bapt. et nullum datur peccatum, [illegible] quoniam petere aut [illegible] valeat, et [illegible]

ex cap. ad limina 30 q. 1. [illegible] filium sit illegitimus et pater [illegible] baptizaverit peccavit et [illegible]

[illegible] ducere uxorem [illegible] spiritualis [illegible] baptizans et parentes [illegible]

[illegible] cap. 1.° de cognat. spirituali tradunt Navar. [illegible] cap. 22 n.° 40 [illegible] et alii plures

plures [illegible] refert, et sequitur Diana [illegible] tract. 4 de sacris resolut. [illegible] [illegible]

sufficiens minister sacram. baptismi sit angelus, aut anima a corpore separata, [illegible]

parte negativa, quoniam Angelus sive anima [illegible] sit beata [illegible] absque [illegible]

[illegible] necesse ad validitatem baptismi, ut docent [illegible] in tract. de baptismo [illegible]

[illegible] Toletus in Summa lib. 1.° cap. 20 n.° 4 [illegible], Vasquez [illegible] disp. 138 cap.

[illegible] et alii plures quos refert, et sequitur Marcus Antonius lib. 5. [illegible] lib. 2. n.° 74 [illegible]

n.° 17

Deinceps [illegible] ad validitatem baptismi requiri [illegible] minister [illegible]

formae, scilicet cum debita intentione, [illegible] applicatio [illegible] simultanea requiritur ut [illegible]

ad ultimam prolationem verborum, sed sufficit [illegible] minister [illegible] [illegible] formae [illegible], [illegible]

simul [illegible] humanus [illegible] [illegible] a ministro [illegible], [illegible]

[illegible] ministri baptizantis debet esse actualis, vel virtualis, [illegible] [illegible]

nullus erit baptismus. Virtualis dicimus [illegible] intentio, [illegible] sacr. [illegible]

aliquid ad illud [illegible] per quod caracter [illegible] ad actionem sacram. [illegible] habitualis

intentionis [illegible] validum, nisi simul haberet intentionem baptizandi

[illegible] in facto [illegible] qui [illegible] baptizaret aliquos pueros catechumenos [illegible]

[illegible] esse [illegible] valide baptizasse, ita [illegible] Vicecomes [illegible] cap.

[illegible] lib. 1. cap. 10 [illegible] 4. Marcus Ant. [illegible] n.° 44 et alii relati a Diana tract. 4.° resolut. 17. [illegible]

[illegible] ministri in [illegible] baptismo, [illegible] sacris [illegible] Deo [illegible], et alii [illegible]

negativa, alii [illegible] parte affirmativa [illegible] [illegible] [illegible]

[illegible]

Denique animadvertimus ad valorem baptismi nihil interesse [illegible]

intentionem baptizandi, [illegible] errat, velut si [illegible] baptizare [illegible]

[illegible] baptizare [illegible], vel filium [illegible] [illegible]

[illegible]

[illegible] de patre baptizante [illegible]

applicatio [illegible] ministri

de errore [illegible] personae baptizandae [illegible]

[illegible]

[illegible] licet [illegible]

[illegible] articulo dicta [illegible]

[illegible]

Quo [illegible] seu de subiecto capaci [illegible] explicat [illegible]
Quo [illegible] de baptismo [illegible] a 7° cap. [illegible]
[illegible] 4. [illegible]

§ 1.

Certum [illegible] sacram. baptismi suscipiendi subiectum capax est quilibet homo viator [illegible], cuiusque [illegible] status et conditionis sit, quae assertio probatur aperte ex Divi Mathei [illegible] cap. ult. [illegible] docete omnes gentes baptizantes eos in nomine Patris et Filii et Spiritus Sancti; et tanquam de fide a universali ecclesia Catholica [illegible] approbationem habet. [illegible] quia sicut omnes homines in Adam moriuntur, ita in Christo omnes [illegible] 2° Divi Pauli authoritatem ad Rom. cap. 5° et 1. ad Corinthios cap. 15. [illegible] baptismus [illegible] et debet conferri omnibus qui participes esse possunt salutis aeternae et regni caelestis, 3° Divi Joannis [illegible] nisi quis renatus fuerit ex aqua et Spiritu Sancto, non potest introire in regnum Dei, [illegible] omnes homines [illegible] participes aeternae salutis 1. ad Timotheum cap. 2°. [illegible] qui vult omnes homines salvos fieri, omnes [illegible] baptismi suscipiendi ita docent [illegible] Thomas 3. p. q. 68. art. 5° ad 4. Belarminus de Baptismo cap. [illegible] Valentia [illegible] 4° disp. 4. q. [illegible] Puncto [illegible] tractatu de baptismo disp. 2. difficult. 7. [illegible] Bonacina et [illegible] quos plures [illegible] Diana [illegible] tract. 3. resolut. 27. [illegible]

§ 2.

[illegible] ex femina [illegible] capax baptismi, quia homo [illegible] peccatum originale [illegible] ex Adamo [illegible] 3. p. q. 68. art. 5. ex Divi Thom. [illegible] art. 5. [illegible] monstrum genitum sit ex viro et femina, et [illegible] dubitetur an sit homo, aut brutum, [illegible] principalia corporis membra velut [illegible], quae formam humanam habeant, baptizari debet monstrum, [illegible] formam [illegible], quia [illegible] baptizare [illegible] debent [illegible] capaces [illegible] baptismi, nec [illegible] Aristoteles lib. 4° de generat. animalium cap. 4°. [illegible] et [illegible] velut [illegible] baptizari [illegible] principale [illegible] membra [illegible]

et [illegible] humanum [illegible] apparet, conseri debet [illegible] [illegible]
[illegible] caput [illegible] principale membrum [illegible] [illegible]
49. [illegible] de [illegible] [illegible] [illegible]
[illegible] donec [illegible] [illegible] utrum homo sit [illegible] [illegible]
[illegible] [illegible] baptismo [illegible]

n.° 3

[illegible] vivent [illegible]

[illegible] [illegible] cum [illegible]

[illegible] anno, [illegible] [illegible] [illegible] [illegible]
baptiçari. [illegible] [illegible] [illegible] [illegible]
[illegible] habeat [illegible] [illegible], aut etiam tale mortuum habet [illegible] [illegible]
[illegible] mortui [illegible], alter [illegible] [illegible] [illegible] [illegible] baptizari debet [illegible]
[illegible] formis [illegible] nisi necessitate [illegible] [illegible] [illegible]
geminas sit baptizare, ut post Scot. [illegible] [illegible] tradit [illegible] [illegible] de
baptismo cap. 6. q. 6. aut [illegible] diversas habere [illegible] [illegible] difficile [illegible] animas habeat,
si duo sint capita in uno pectore, vel duo pectora sub uno capite, duplex baptismus conferendus, [illegible]
absolute illa [illegible] aqua [illegible] caput, vel pectus apparet, alter sub conditione [illegible] [illegible]
baptismo [illegible] qui tradunt [illegible] 4.° d. 3. q. unica art. 9. [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] quos refert, et sequitur Bonacina de baptismo q. 2.ª puncto 6. n.° 4 [illegible] =

n.° 4

Deinde deducitur mortuos minime baptizari posse, quod [illegible] ex [illegible]
[illegible] sub [illegible] anno Xpi [illegible] [illegible] celebrato in Trullo can. 83, [illegible]
Carthaginensi 3.° sub [illegible] celebrato anno Xpi 397 can. [illegible], ubi post quam decrevit defunctorum corporibus
[illegible] dandam [illegible], [illegible] [illegible], [illegible] [illegible] ne mortuos baptizari posse [illegible] [illegible]
credat. [illegible] [illegible] [illegible], [illegible] ut in 1.° [illegible] [illegible] [illegible] soli homines viatores
sunt capaces [illegible] sacramenti baptismi, [illegible] [illegible] hominibus [illegible] ut [illegible]
gratiam, et peccatorum remissionem [illegible] remedia [illegible] [illegible] post hanc enim vitam, ubi [illegible]
[illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], Baronius 4.° t. anno
986. cap. 33. [illegible] [illegible] [illegible] [illegible] cap. 4 col. 4 [illegible] [illegible]
q. [illegible] 2.ª [illegible] 35 [illegible] [illegible] 157. cap. [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible], ut [illegible] [illegible] ad [illegible]
resurrectionem [illegible] [illegible] numerum cap. 19. [illegible] mortuum [illegible] [illegible]
[illegible] quando [illegible] [illegible] [illegible], atque [illegible] baptizari pro mortuis [illegible]
[illegible], [illegible], [illegible] [illegible] [illegible] [illegible] Ecclesiastici cap. 34. [illegible]
[illegible] [illegible] [illegible] mortuum, [illegible] [illegible] [illegible] =

n.° 5

Quod si dubitetur an vivat infans [illegible], prius [illegible] oportet.

[illegible] [illegible] [illegible] habeat [illegible] simpliciter, et absolute baptizetur, [illegible] constet [illegible], [illegible] baptizetur, [illegible]
[illegible] dubium sit, baptizari debent sub conditione si vivus es, [illegible] [illegible]
[illegible], [illegible], [illegible] [illegible]. [illegible] [illegible] ad [illegible] [illegible] femina, [illegible]
[illegible] [illegible] sit [illegible] [illegible] ad baptizandum infantem, [illegible] quando [illegible]
[illegible] dubitatur an vivat, [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] Paulus [illegible] [illegible] [illegible]
[illegible] 4.° d. 6. q. 2.ª art. 4. Silvester [illegible] baptismus 4.° [illegible] [illegible] cap. [illegible]
quos refert et sequitur [illegible] de off. [illegible] cap. 6. de baptismo [illegible] = Quare [illegible]

[illegible] ... Thomas, l. 3. [illegible] ... [illegible] ... [illegible] ... [illegible] ... sed mori ut [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible], ut verbum [illegible] respondet [illegible] mater [illegible], ante [illegible] ... [illegible] ... [illegible] baptizari [illegible] ... [illegible] ... 111, [illegible]

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[illegible] ... [illegible] ... parvulos [illegible] ... esse capaces sacramenti baptismi, [illegible] probatur 1°. quia omnis homo [illegible] ... peccati Adami, [illegible] ut late diximus tractatu de necessitate. 2° ex Joannis [illegible] ... [illegible] ... baptismi [illegible] ad [illegible] cap° 10, sed illo tractu [illegible] adulti, verumque parvuli [illegible] ... et per baptismum Justificari valent. 3° nam in Veteri Testamento infantes [illegible] circumcidabantur genesis cap° 17, [illegible] ... [illegible] debent, ac per [illegible] capaces sunt baptismi. 4° probatur ex pluribus sacris [illegible] locis ubi docemur baptizata fuisse integras familias et [illegible] ex actibus Apostolorum cap° 16. versu 33 ibi baptizatus [illegible], et omnis domus eius [illegible], probabile autem est [illegible] familijs fuisse aliquos infantes. et ex Mathei cap° 19 versu [illegible] Sinete parvulos, et nolite eos prohibere ad me venire, talium est enim regnum [illegible], [illegible] parvuli capaces sunt [illegible] per baptismum gratiae et regni Gloriae. [illegible] firmatur [illegible] Catholicae Ecclesiae consuetudo quae ex traditione Apostolorum baptismum parvulorum semper [illegible], ut constat ex [illegible] ... [illegible] ... [illegible] de Summa Trinitate et fide Catholica, et ex Trid. [illegible] 7. de baptismo can. 12. 13 et 14. et [illegible] 5. de peccato [illegible] ... [illegible] Dionisius, [illegible] Nazianzenus, [illegible] Crysostomus, Aug. et alij quorum authoritates [illegible] ... Theologi in locis [illegible] ...

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[illegible] quibus [illegible] Venit [illegible] Hereticorum error qui [illegible] ... Divi Bernardi ut ipse refert epist. 240 [illegible] parvulos [illegible] ante quam ad usum rationis pervenerint non esse capaces baptismi, et consequenter minime baptizandos, quem errorem postea [illegible] huius temporis [illegible] qui appellantur Anabaptistae, qui inter alia moventur ex Divi Mathei [illegible] cap. ult. [illegible] docete omnes gentes [illegible] ... cap. ult. [illegible] qui crediderit, et baptizatus [illegible] ... baptizandos, [illegible] ... [illegible] in fide, [illegible] habeant, [illegible] parvulos ante usum rationis, [illegible] credant, nec fidem [illegible] habere, [illegible] capaces baptismi. = Sed [illegible] praedicta Scripturae testimonia intelligenda [illegible] de adultis, [illegible] ... qui ante usum rationis non [illegible] credere [illegible] ... de bapt°. [illegible] enim dominus noster [illegible] capitulo Mathei [illegible] Apostolos [illegible], quem servarent in Conversione gentilium adultorum, ut 1°. prius instruerent eos in fide, 2° baptizarent, 3°. [illegible] ... [illegible], qui quidem ordo [illegible] servari [illegible] propter incapacitatem [illegible], [illegible] Belarminus [illegible] ... 2° de bapt. [illegible] 9. [illegible] ... cap. 11. [illegible] ... 54. [illegible] 2° Castro, [illegible] ... baptismus [illegible] ... alij qui multis et varijs argumentis [illegible] ... [illegible] satisfaciunt. =

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[illegible] parvuli [illegible] baptizantur [illegible] Credere, ut [illegible] Credentes [illegible] ... [illegible] ... Divi Aug. [illegible] ... [illegible] ... 4. [illegible] credere [illegible] baptizari [illegible] ... [illegible] ... Trid. [illegible] ... [illegible] ... [illegible] ... 1° ex epist. ad Rom. cap. 10 ibi Corde Creditur ad Justitiam, ore [illegible] ... [illegible], parvuli [illegible] videntur fidem [illegible] habentes nec corde Credentes, nec ore [illegible] ... capaces baptismi, [illegible] licite baptizandos. [illegible] dicendo in adultis fidem propriam [illegible], in parvulis [illegible] sufficere fidem alienam [illegible] ... Ecclesiae, et [illegible] sacramentum fidei, ut docet [illegible] ... [illegible] ... [illegible] ... mater [illegible] materna parvulis [illegible] ut sacris mysterijs imbuantur [illegible] ... corde credere [illegible] ...

[illegible] 4 ut docet [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] cap. [illegible] =

N.º 9

[illegible]

[illegible] respondent [illegible]

[illegible]

[illegible] cap. [illegible] nec [illegible] dicentes [illegible]

[illegible] huiusmodi obligatio oritur ex libertate [illegible] aug.[illegible] de [illegible]

[illegible] respondet [illegible] spirituali regeneratione et iustificatione [illegible]

[illegible] de consecrat. dist. 4.ª Accedit [illegible] sequitur [illegible]

[illegible] unica [illegible] C. de [illegible]

[illegible] de [illegible] 6. Accedit quod parvulus [illegible] perveniret ad adultam [illegible]

si haberet sufficientem notitiam legis Evangelicae, atque [illegible] baptismi [illegible] obligatio, qua [illegible]

in adulta [illegible] ut docent [illegible] sect. 1.ª [illegible]

baptismo cap. 4.º § [illegible] =

N.º 10

[illegible] Adversus quam doctrinam [illegible] difficultas [illegible]

[illegible] cap. parvuli 150. de consecrat. dist. 4.ª in [illegible]. parvulus autem qui baptizatur si ad annos [illegible]

veniens non crediderit, nec ab illicitis abstinuerit nihil ei prodest quod parvulus accepit, [illegible] videtur

baptismus receptus a parvulis nullam utilitatem [illegible] afferre postquam [illegible] fuerint adulti, [illegible]

[illegible] fide [illegible] actualiter [illegible] = Hac difficultas adeo gravis [illegible]

[illegible] auctores [illegible] quibus [illegible] movebantur ad affirmandum parvulos

[illegible] baptismi, ab illo quem receperunt nullum effectum sortiri, nec [illegible] nec [illegible]

et [illegible] plura [illegible] ut [illegible]

[illegible] dicimus [illegible] debere intelligi de obligatione [illegible] fidei quam proculdubio parvuli [illegible]

ut [illegible] fideles ut [illegible], ubi parvuli fideles [illegible] fidem [illegible]

[illegible] sed potius [illegible] nihil eis proderit baptismus [illegible]

[illegible] post illum receptum in peccata [illegible] et [illegible] perinde ac si [illegible]

baptismum [illegible] aug.[illegible] de [illegible]

[illegible] =

N.º 11

[illegible] baptismi [illegible] parvuli [illegible]

[illegible] parentum aut alterius [illegible] voluntatem [illegible]

[illegible] 4.º [illegible] ad [illegible]

nulla [illegible]

Doctores, [illegible] 25. [illegible] col. 4.ª et 5.ª [illegible]

[illegible] voluntatem [illegible] baptismi receptionem [illegible]

[illegible] voluntas [illegible] ut [illegible] parvuli [illegible]

[illegible]

In [illegible] in cap. parvuli 150 de consecrat. dist. 4.ª

[illegible]

[illegible] baptismum [illegible] parentes [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] Vecamp [illegible]
[illegible] [illegible] [illegible] =

n.º [illegible]

[illegible] fidelis [illegible] filios [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] Conradus [illegible] [illegible] ut dicit [illegible]
[illegible] [illegible] baptismum [illegible] et parentes [illegible] aut [illegible] fuerint, filios [illegible] subtrahere [illegible]
nam [illegible] art. 10. Caeterum si filij sint infideles in dum [illegible], et qui nullo modo
ii sunt subiecti distinguendus est, nam si filij usum rationis habeant, velintque baptismum suscipere [illegible]
[illegible] parentibus [illegible] in [illegible] per se ius habent petendi, quod sibi necesse est ad salutem, cum in ordine ad spiritualia
[illegible] consideratur patria potestas [illegible] ad [illegible] ut [illegible]
[illegible] de voto, nec voluntas patris reputatur voluntas filij cap. unico § [illegible] de [illegible]
[illegible] de reformat. cap. 1. Si vero filij sint parvuli usum rationis non habentes, parentibus invitis [illegible]
[illegible], quia parentes naturaliter, et ratione patriae potestatis ius habent providendi filios [illegible]
et eorum curam gerendi quamdiu ex defectu aetatis propria ratione, et voluntate [illegible], quo quidem iure [illegible]
[illegible] citra iniuriam parentes privare, sicuti nec eos cogere ad fidem, aut [illegible] amplectendam armis, aut bonorum
[illegible], sed praedicatione, admonitione, et alijs similibus modis cap. [illegible] de [illegible] 45. dist. [illegible] 4. [illegible]
[illegible] [illegible] tradit [illegible] de [illegible] [illegible] 2. cap. 16 [illegible] =

n.º 43

Verum praedicta doctrina in nullis casibus, seu circumstantijs occurrentibus,
limitanda? quibus praedicti infideles filij quantumcumque parvuli, et licite, et licite baptizantur [illegible] parentibus invitis. 1.º est quando illi extiterint in evidenti periculo mortis [illegible] parentes irrationabiliter sunt inviti,
quia in hoc eventu periculi [illegible] [illegible] [illegible] [illegible] proximo [illegible],
[illegible] [illegible] amittit [illegible] [illegible], cum qui [illegible] renatus ex aqua et Spiritu Sancto, [illegible]
regnum Dei in [illegible]. Ex doctrina usque relata [illegible] tradunt [illegible] 4.º dist. 5. q. unica art. 7. [illegible]
[illegible] 33 [illegible] disp. 153 cap. 9. n.º 22. [illegible] de [illegible] disp. 2. n.º 66. Vecamp de [illegible] cap. [illegible] q. 8. [illegible] de
baptismo cap. 6. n.º 10. [illegible] [illegible], et alij quos refert [illegible] de baptismo disp. 9. n.º 5. [illegible]
[illegible], qui [illegible] [illegible] Curandus, et [illegible] ne [illegible] Christi scandalo, [illegible]
[illegible] in [illegible] Christianae religionis, et occasio sacrilegij aut blasphemiae tribuatur, quippe infideles
[illegible] Catholicis [illegible] [illegible] abhorrent baptismum, et [illegible], cum [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible], et [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] de Catholica [illegible] =

n.º 44.

[illegible] quando alter ex parentibus infidelibus filios [illegible] baptizari [illegible]
tit, aut saltem ad fidem convertatur, [illegible] favore religionis potior est voluntas [illegible], aut filij [illegible]
baptizari volentis, [illegible] [illegible] pater ille sit, verum etiam si mater, hoc enim [illegible] favore fidei [illegible]
[illegible], et licet [illegible] [illegible] filius educandus, [illegible] [illegible] 10 [illegible]
[illegible] decent [illegible] [illegible] [illegible] [illegible] 2. [illegible] [illegible] [illegible] [illegible] refert [illegible]

[illegible]

[illegible]
[illegible] limitatur.

et eadem ratione [illegible] tenuisse [illegible], quem [illegible] hanc [illegible] opinionem videtur, [illegible]
tanta et contradicente natura [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] tenendum est, quamvis [illegible] defendere certamine [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] liberos [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] de sponsalibus [illegible] cap. 4 § [illegible]. Thomas [illegible]
dist. [illegible] 40 a. 2 [illegible] disp. 77. [illegible] cap. 4 [illegible]
[illegible] [illegible] debent a Concordio tenere [illegible] [illegible]
[illegible] [illegible] adeo ut [illegible] [illegible] [illegible]
[illegible] [illegible] ut docet Sanchez [illegible] decalogi cap. [illegible] 1 n. 10. [illegible]
[illegible] Bart. in Collect. ad [illegible] cap. [illegible] n. [illegible] [illegible] —

Praemissa [illegible] — n. 15

[illegible] [illegible] aliique infideles [illegible]
[illegible] [illegible] [illegible] filii parvuli [illegible] [illegible] parentibus, [illegible] [illegible]
[illegible], quod [illegible] ex [illegible] [illegible] ubi adhuc [illegible] [illegible]
[illegible] [illegible] [illegible], qui [illegible] [illegible] servi [illegible] [illegible] potest [illegible]
liberos habebant, quoniam qui [illegible] potestate alterius [illegible] [illegible] [illegible]
[illegible] ad legem Iuliam de adulteriis. [illegible] [illegible] videtur habere [illegible] potestatis [illegible] [illegible]
[illegible], denegata [illegible] parentibus [illegible] prohibendi filiis suis ut baptizentur. ut docent [illegible] 4. d. 4 q. 3. [illegible]
disp. 25 sect. 4 n. 3. Valentia [illegible] q. 3 puncto 3. [illegible] de [illegible] de Catholicis institutionibus [illegible]
51. [illegible] hominum [illegible] licere [illegible] [illegible] parvulos aliis [illegible] ut alienos, [illegible]
separatos fiant Christiani; hoc enim dominus [illegible] licet [illegible] [illegible] servos habent, ut [illegible]
[illegible] docet Petrus de [illegible] [illegible] 10 [illegible] 309. qui affirmat valde controversum [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] utraque [illegible] parte adducit fundamenta,
[illegible] [illegible] videatur in affirmativa [illegible] ad dominicae potestatis, [illegible] [illegible]
[illegible] [illegible], quod servi [illegible] [illegible] [illegible] cap. 1 de [illegible] servorum [illegible]
[illegible] minime [illegible] [illegible] ordinandi [illegible] [illegible] Sanchez [illegible] de matrimonio disp. 19
[illegible]. [illegible] [illegible] 42 et 43. Gutierrez [illegible], Cobb. de sponsalibus [illegible]
[illegible] 7 n. 1 et 2. [illegible] de servis [illegible] sect. 3 n. [illegible] [illegible] —

alia [illegible] — n. 16.

Ex dictis [illegible] valde controversum [illegible] infideles, aut Iudaei [illegible]
Christiano Principi subiiciuntur voluntarie absque [illegible], Princeps [illegible] possit licite [illegible] filios [illegible]
parentibus baptizare. [illegible] varie [illegible] scriptores [illegible] [illegible] placet [illegible] [illegible]
[illegible] [illegible] q. 68 art. 10. [illegible] [illegible], quoniam [illegible] infideles, quibus [illegible]
et tributarii [illegible] Principi Christiano [illegible] dominia [illegible], [illegible]
potestate in liberos, quo [illegible] [illegible], ac [illegible] baptizando [illegible] filiis
a Concordio [illegible] parentes separando [illegible] cap. [illegible] 10 [illegible] [illegible] [illegible] art. 10
[illegible] de baptismo [illegible] 10 [illegible] [illegible] puncto 6 n. 2, [illegible] affirmant [illegible]
[illegible] quando inter Christianos [illegible] parentes [illegible] [illegible]. quippe [illegible] [illegible] filii [illegible]
[illegible] [illegible] ut [illegible] [illegible] Catholicis, [illegible] [illegible] adeo ut [illegible] [illegible]
baptizatus [illegible] [illegible] existat, [illegible] debeat puniri [illegible] [illegible], et [illegible] [illegible]
et [illegible] [illegible] [illegible] cap. [illegible] 19. de haereticis [illegible]. [illegible] Villalobos [illegible]
[illegible] tract. 2 diff. 26. [illegible] tract. [illegible] [illegible] 10 tract. 4 [illegible]

[illegible] [illegible] ad 3. [illegible] num. 4. [illegible] 9. et [illegible] num. 2. 15. [illegible] 7. et [illegible] [illegible] =

N.° 17

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] num. 9. 4. [illegible] [illegible] et [illegible] [illegible] [illegible] et [illegible] ut abominationes, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] baptizari debere [illegible] parentibus quando [illegible] Christianis [illegible] [illegible] [illegible] baptismo [illegible] [illegible] [illegible] Corpori quia [illegible] [illegible] [illegible] [illegible] = In [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dicta, et [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] ad fidem [illegible] [illegible], ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quod [illegible] [illegible] ad fidem [illegible] [illegible] tributorum [illegible] [illegible] [illegible] ut [illegible] [illegible] num. 4. [illegible] [illegible] de fide [illegible] 18 [illegible] num. 8, [illegible] [illegible] [illegible] [illegible] [illegible] 18 num. 40 [illegible] et alij quos refert et sequitur [illegible] in Collect. ad Decretales [illegible] = [illegible] [illegible] aliique infideles [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exemplo que populus Christianus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] regno expelli nisi baptismum [illegible] [illegible] ut [illegible] extat in Concilio Toletano 6.° cap. [illegible], et [illegible] [illegible] Regum Catholicorum Ferdinandi et Elisabet quorum sancta, et religiosa Edicta extant [illegible] 4 [illegible] tit. 8. novae recopilationis, et [illegible] laudibus extolluntur [illegible] Mariana et alijs in vita Regum Catholicorum [illegible] [illegible] [illegible] de monarchia Hispanica [illegible]. Alvarez, [illegible], et alij plures quos refert [illegible] [illegible] [illegible] [illegible] ad [illegible] recopilationis [illegible] legibus =

N.° 18

Nec [illegible] obstat [illegible] [illegible] infidelium [illegible] 11. [illegible] [illegible] ex Concilio Toletano 4.° cap. 49. [illegible] [illegible] [illegible] filios, et filias, ne [illegible] [illegible] [illegible] [illegible] separandos esse, et monasterijs, aut [illegible], vel [illegible] [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de infidelium filijs [illegible] baptizatis, [illegible] [illegible] 2.° expressis Canonis [illegible], [illegible] à Concilio tradita. [illegible] cap. [illegible] 12. [illegible] [illegible] [illegible] Concilio Toletano cap. 62. ad vitandum periculum perversionis [illegible] [illegible] ad fidem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] qui in veteri [illegible] [illegible]. [illegible] [illegible] separandi [illegible] filij baptizati à parentibus infidelibus, sive parentes ipsi eos voluntarie baptismo obtulerint, sive eis invitis fuerint sacro baptismate [illegible], [illegible] [illegible] baptizati, [illegible] parentibus tradiderunt [illegible] periculo perversionis [illegible] cap. 2.° de [illegible] infidelium ut [illegible] [illegible], et [illegible] [illegible], et [illegible] [illegible] [illegible] 7.° [illegible] [illegible] 73. num. 16. Carrança de [illegible] cap. 3.° § 4.° de [illegible] [illegible] educat. ex num. 25. [illegible] 36. Cavallero [illegible] [illegible] 737. num. 47. et [illegible] et alij plures quos refert et sequitur [illegible] in Colect. ad Decretales Coll. [illegible] [illegible] [illegible] [illegible] [illegible] quando parvulus fuerit ab infidelibus parentibus [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] restitui [illegible] parentibus, aut [illegible] [illegible] [illegible], dum baptizantur à parentibus invitis, nec restituendus illis [illegible] periculum perversionis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Enriquez [illegible] [illegible] cap. 23. § 2.° [illegible] [illegible] cap. 6. num. 10 [illegible], et alij relati à [illegible] [illegible] =

Denique

C[illegible]

[illegible]

[illegible] Catholici possint licite baptizare filios [illegible]

Respondeo quamvis [illegible] parentibus [illegible] periculo [illegible]

in dubio, quamvis [illegible] authoritatibus Scripturae [illegible]

[illegible] praxique receptior [illegible] qui hac duplici fundamento nititur. 1o

periculi perversionis [illegible] proceduntur [illegible] infantes [illegible]

[illegible] salventur. 2o quoniam parentes [illegible]

[illegible] in Catholica fide educandos filios [illegible] qui filios

[illegible] superstitiones [illegible] solent. Quamobrem [illegible] baptizandi [illegible]

[illegible] parentibus [illegible] admittimus in filiis infidelium [illegible] parentes ad baptismum [illegible]

[illegible] liberentur [illegible] in fide orthodoxa [illegible]

[illegible]

Ut [illegible] Dei omnipotentis [illegible] Virginis [illegible]

[illegible] discipuli, quibus [illegible] ut [illegible]

articulos [illegible] ad baptismum [illegible]

[illegible]

[illegible] ut [illegible]

percipiant, valete

plaudite

[illegible] requisita ad [illegible] baptismum [illegible]

[illegible] in cap. [illegible] cap. [illegible]

[illegible] cap. 4 [illegible]

[illegible]

Requiritur [illegible] ad [illegible]

[illegible] de Voluntate [illegible] quæ [illegible] Domino [illegible] in [illegible] adulti [illegible] requiritur [illegible] quamvis [illegible] in adultis [illegible] conversio [illegible]

[illegible] cap. [illegible] cap. de [illegible] 4 [illegible] cap. [illegible] maiores [illegible] de baptismo [illegible] Concilij Cartaginensis [illegible] Iuris Pontificij 2a p. tit. 22. [illegible] hoc tempore lex data [illegible] Voluntate [illegible] Christianitatis [illegible] cap. 4o [illegible] art. [illegible] D. Thomas [illegible] art. 7 [illegible] omnes [illegible] Vasquez disp. 157. cap. 2o Valentia disp. 4a q. [illegible] puncto 2o Columna [illegible] disp. [illegible] sect. 4a [illegible] tit. 2o de bapt. cap. [illegible] Silvester [illegible] Navarrus [illegible] Cesarius disp. [illegible] q. 2a [illegible] Cuiacius [illegible] quod [illegible] fundam. [illegible] Caietani [illegible] cap. 7 [illegible] ad [illegible] baptismum [illegible] necesse [illegible] voluntatem [illegible] recipiendi bapt. [illegible] cap. maiores [illegible] quibus [illegible] baptismus [illegible] Voluntas [illegible] [illegible]

[illegible] Probatur [illegible]

[illegible] adultus [illegible] dominus [illegible] Voluntatis [illegible] Voluntate [illegible] fidem [illegible] cap. de [illegible] 4 [illegible] fidem [illegible] Deus [illegible] Voluntate [illegible] baptismi [illegible] Voluntas [illegible] baptismi [illegible] adultus [illegible] Voluntate [illegible] baptismi [illegible] Vasquez Valentia [illegible] adultus Voluntate [illegible] adultus [illegible]

[illegible]

[illegible] Voluntas [illegible] Voluntate [illegible] Characterem [illegible] adultus [illegible]

[illegible] Voluntatis [illegible] [illegible] amentiis [illegible]
[illegible] baptismi [illegible] habere [illegible]
[illegible] baptismi [illegible] baptizatur [illegible] baptismi [illegible]
[illegible] Voluntas [illegible] voluntas [illegible] [illegible] ante
[illegible] Voluntas, nihil [illegible] sed [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] =

Cur intent. requir. in adulto expono

n.° 4. Hoc p. intento, [illegible] ad suscipiendum baptismum
cum adultus valorem in adulto requiritur [illegible] sed [illegible] tempore quo
[illegible] baptismi suscipitur, sed satis virtualis, id est quod aliquando fuerit, et moraliter duret, nec
[illegible] (quam aliqui habitualem appellant voluntatem) [illegible] voluntas [illegible] ut
[illegible] voluntarius [illegible] Suarez [illegible] de baptismo [illegible] similiter [illegible] obmutescens (prout
[illegible]) [illegible] accipere [illegible] voluntatis [illegible] testimonium [illegible] habet, aut
[illegible] amentibus [illegible] pietatis [illegible] conferenda [illegible] ubi [illegible] tradunt [illegible]
[illegible] Suarez [illegible] cap. 4 [illegible] Marcus Antonius [illegible] q. ult. [illegible] n.° 9 [illegible]
[illegible] cap. [illegible] Bonacina [illegible] puncto 6 n.° 16 et [illegible] in tractatu de actibus [illegible]
[illegible] adulti, quicumque voluit baptizari, aut si aliquando voluit [illegible] voluntatem suscipiendi baptismum
[illegible] revocavit, [illegible] baptizatur, nec characterem recipere, [illegible] in hoc casu [illegible] perfecta
voluntas [illegible] requiritur ad [illegible] sacramentum baptismi suscipiendum, [illegible] =

De dormiente et amente =

n.° 5. Hinc [illegible] [illegible] deducimus
validum esse baptismum collatum dormienti, si illud ante somnum petebat, verum [illegible] habita
voluntas habere dicitur. Quidem statuimus de furioso, et amente, si ante amentiam, vel dum [illegible]
[illegible] intervalla, petebant baptismum [illegible] baptizarentur, [illegible]
tandem [illegible] in furore [illegible] actus humanus [illegible] praecedentem voluntatem, ut expresse [illegible]
In 4. [illegible] cap. [illegible] q. ult. de baptismo, [illegible] D.r Aug. [illegible] de quodam [illegible] 4.°
[illegible] cap. 4.° [illegible] Angelicus Praeceptor D.r Thomas [illegible] 68. art. 12. [illegible]
[illegible] explicant, [illegible] amentes, vel dormientes licite baptizare [illegible]
aut [illegible]. [illegible] 3. p. resolutionum moralium tractatu 4.° de sacramentis resolut. [illegible]
[illegible] cent. 3.ª [illegible] cap. 22. et Bonacina [illegible] puncto
[illegible] ut ille [illegible]
at, [illegible] baptizandus [illegible] necessitatis. [illegible]
[illegible] quia [illegible] valide [illegible] licet [illegible]
[illegible] conferant [illegible] [illegible] cap. [illegible]
[illegible] de baptismo n.° 15 [illegible] =

Principium [illegible]

n.° 6. [illegible] obiectio urget, minister dormiens, vel amens
qui antea voluit administrare sacrum baptisma, si tunc [illegible], vel somno est, administret nihil efficit, ad
baptismus [illegible] nullius sit momenti, [illegible]
[illegible] de ministro, [illegible] de suscipiente, [illegible]
[illegible] quis in amentia, vel somno [illegible] suscipit, quamvis antea bap[illegible]

Volu[illegible]

[illegible] ... [illegible] ... Dominico ... [illegible] ... libera ... [illegible] ... cap. ... Donacio ... [illegible] =

Unde dicendum existimo et doctrina [illegible] ... [illegible] ... eorum ... [illegible] ... [illegible] ... Voluntarium, ... [illegible] ... baptismi ... dici baptizari, et caracterem [illegible] recipere, et interea ad fidem Christianam servandam teneri, ut definitur ab Innoc. 3. in d. cap. Maiores § ult. de baptismo, et antea erat decretum in Concilio Toletano 4. cap. 56. relato in d. cap. de cons. d. 4. 5. ibi quamvis iam pridem ... Christianitatis coacti [illegible], quia iam constat eos Sacramentis divinis sociatos baptismi gratiam suscepisse, et Crismate unctos esse, et Corporis Domini extitisse participes, oportet ut fidem quam etiam vi, vel necessitate susceperunt, tenere cogantur, ut [illegible] tradit Bassilius lib. 4. de matrim. cap. [illegible] Morzano de iure [illegible] lib. [illegible] cap. [illegible], ubi [illegible] ... et in [illegible] redigunt [illegible] ... de adeunda hereditate ubi [illegible] docet quod quamvis [illegible] coactus addit hereditati ... heredem [illegible] ... tamen [illegible] ... coactus addit hereditatem ... heredem efficit, quia [illegible] liberi ... tamen coacta voluntas, voluntas [illegible] ... elicita voluntas, [illegible] ... et [illegible] ... excaudiendo [illegible] =

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Verum hanc resolutionem duplex [illegible] difficultas. Prima erit quia [illegible] non est simpliciter Voluntarium, sed mixtum ex Voluntario, et involuntario, [illegible] involuntarium quam spontaneum cum [illegible] sit magis Voluntati [illegible] quam [illegible] ... [illegible] ... de [illegible] ... videtur [illegible] ... item [illegible] ... atque [illegible] ... trahitur ad baptismum, tanquam [illegible] ... Voluit [illegible] ... ergo [illegible] defficit Voluntas [illegible] ... baptismi [illegible] ... [illegible] ... Huic difficultati ut satisfaciamus dicimus [illegible] ... simpliciter, et absolute Voluntariam, et liberam, ut ... quod involuntarium [illegible] ... ad libertatem simpliciter satis est ut ... [illegible] ... absolute ... [illegible] ... De Heredibus instituendis ... Vult, ... [illegible] ... Nec [illegible] obstant [illegible] ... de baptismo, nam ... Conditionaliter Voluntarium, et absolute involuntarium [illegible] ... actionem permanet solida, ut tradit D. Thomas 1. 2. q. 6. art. 4. ... [illegible] ... lib. 4. de [illegible] ... [illegible] ... ad [illegible] cap. de [illegible] 4. [illegible] =

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Secunda difficultas descendit ... [illegible] ... celebratus ... nullius momenti ex defectu liberi Voluntarii, casu ... [illegible] ... cap.

[illegible] ... Sanchez lib. 4 de matrim. [illegible] ... [illegible] ... 34 [illegible] ... [illegible]

... [illegible] excludat [illegible] ... sicut nec [illegible] ... iure non est validum matrimonium [illegible] ... ita valet baptismus [illegible] obligationes servandi Christianam fidem. =

n.° 10

Dices ex nuper traditis infertur [illegible] ecclesiasticos iure posse nullum baptismum metu gravi susceptum, quemadmodum eodem iure nullum est matrimonium, et [illegible] sed [illegible] tenendum est, nam alia sacramenta praeter matrimonium habent ex Christo domino institutionem determinatam materiam, formam, subiectum et dispositionem ad illa valide conficienda atque recipienda, et ideo [illegible] reddere nullum sacramentum, quod semel est validum ex sua institutione independenter ab [illegible] quod pendeat ab [illegible].

[illegible] si semel admittamus valere baptismum [illegible] dicto metu susceptum, ut certum est [illegible] necessarium [illegible] dicere debemus nullo modo [illegible] positivo iure posse reddere nullum talem baptismum, at [illegible] materiam et formam sacramenti matrimonii distinctam a materia et forma [illegible] ... [illegible] potestatis annullandi [illegible] ... Sacramenti [illegible] ... [illegible]

n.° 11

Facit etiam [illegible] ... divina [illegible] ... [illegible] ... [illegible] sufficienter [illegible] fides Christiana [illegible] ... ex baptismum valide recipiat [illegible] ... [illegible] ... [illegible] art. 3 dubio [illegible] ... [illegible] ... [illegible] ... [illegible] ... adultum ad baptismum [illegible]

[illegible]

[illegible]

[illegible] ... [illegible] moralis [illegible] =

[illegible] ... [illegible]

... fidem non habeat, nam quemadmodum ex capite [illegible] ut verum sint sacramentum, necessaria fides, ita necessaria [illegible] requiritur ad eius valorem, immo neque alius bonus motus voluntatis ut constat ex capite [illegible] ... [illegible] et tradit inter alios D. Thomas 3. p. q. 68. art. 8 ... =

n.º 13. — Hoc 2.º probatur ex dictis Divi Marci et Divi Mathei [illegible] cuius superius relatis, quatenus ex eis videtur colligi in adultis [illegible] fidem requiri, et necessario ad hoc ut recipiant non solum sacramentum, sed gratiam regenerationis, adeout talis fides necessaria ... actualis, vel habitualis, quoniam dum dicta ait Dominus, qui crediderit, et baptizatus fuerit, [illegible] qui non crediderit condemnabitur, hoc significare [illegible] sine fide, baptismo nullus [illegible] ... fide baptismus [illegible] quo alludit authoritas Divi Hieronimi in [illegible] cap. Mathei dicentis [illegible] ... carnis, fieri ut exterius baptizetur corpus in corpore, neque mente [illegible] quae tradunt Valentia [illegible] ... Suarez [illegible] ... difficultatem in casu non valere [illegible] ... sine [illegible] fide [illegible] baptismi [illegible] ... [illegible] ... Valere [illegible] ad salutem baptismum [illegible] fidei [illegible] ... perseverantes peccatorum abolitionem [illegible] ... [illegible] explicationem. =

n.º 14. — [illegible] denique dispositio adulti baptizandi [illegible] ... [illegible] et dolor de peccatis ... [illegible] solam fidem requiri ut baptismus [illegible] ... [illegible] de fide et operibus cap. 4 [illegible] ... [illegible] ... Mathei cap. 3. et 6. [illegible] ... [illegible] Cartagena 4. cap. [illegible] ... cap. 14 ... [illegible] 6. cap. 6. [illegible] ... [illegible] ...

Castill. ... Pontificum cap. ... Turrecr. ... sess. ... cap. ... Tertull. ... et aliis ...

... D. Thomas ... art. 4. ... argumenti refert ...

... ad nullum ... Voluntatis ... Vitae ... baptismi ... Vitae poenitentia, sicut ... baptismi ... Vol. et peccandi quo excludit ...

... ad ...

quoniam dolor de peccatis requiritur.

necessit ad ... quae ... Sanctus ... dilectio ... dolorem de peccatis ... requirit ... perfectus ... vera ... peccata ... amore ... dilectio ... D. Thom. ... art. ...

... sufficere attritionem ... Vel ... et per ... cap. ... significat ... tenebis ... attritionem ... Sacramento baptismi facilius ... dilectio ... sufficit attritio ... baptismus ... ad ... baptismus ... homines ... gratia ... Deo ... cap. ... imperfecta ... quaecumque ... Valent. ... Columna ... et alii ... baptismi ...

nitz ee perfectus et a contritione. ... vera ... licet ... Navarrus in manuali cap. 1. n. 19. ... =

n.° 16

an de ... peccati.

Dicimus 2°. ... necessarium in hac ... attritione dolere ... omnibus peccatis, sed satis esse dolere de aliquibus in specie, et de reliquis in confuso, ... baptismo valde differt a dolore qui requiritur in sacramento poenitentiae ... de singulis peccatis mortalibus in specie, licet ... singuli dolores, sed unus ... quoniam in illo sacramento ordinatur ... dolor ad ... peccatorum, sic ... ut dolor sit de singulis; in baptismo autem ... necessaria ... singulis debet ... dolor ... odium et displicentia peccatorum ... baptismum ... in specie ... ut docet D. Thomas ... art. 8. ... dolor et ... debet fieri ... baptismo ... nec ... dolor, nec ... peccatorum ... quidem ... dolorem peccati, unus ... Deo, et hic requiritur ... homo ... Vitam ... poenitentiae ... alterum exterior ... ante baptismum ... baptismus ... cap. 3. ... baptizato ...

n.° 17

... ratione ...

Dicimus 3°. ... ad dolorem ... peccatorum ut ... in cap. ... Concilii ... cap. 4. ... 17 ... Romanos cap. 12 ... dolor, et ... attritione ... peccati ... cap. 4. ... cap. ... 16. ...

...

[illegible]

... quam accedat ad baptismum ... tam peccato originali quam actuali mortali ... [illegible] ... peccatum originale ... [illegible] ... Innocentij tertij ... de baptismo docentis ... peccato originali ... peccato actuali mortali ... [illegible]

[illegible] de tertio articulo ... [illegible]

Articulus decimus tertius

De effectibus sacramenti baptismi ... [illegible] ... 42. ... 134. ... 136. ... 141. ... de consecratione ... 4.

Licet Impij ... detestandi ... Sacramenti baptismi ... plurimos effectus tribuerint ... quamquam ... tradit Bellarminus ... de baptismo cap. 12 ... primarios ... secundarios ... primarius ... remissio ... de secundarijs ... huius articuli dicemus ... baptismus ... gratia ... virtutibus ... supernaturalibus ... [illegible] ... peccata ... originalia ... actualia ... in sacra pagina ... [illegible]

[illegible] originali [illegible] cap. [illegible]

[illegible] originali [illegible]

[illegible] peccator [illegible]

[illegible] remissio omnis [illegible]

[illegible] baptismo [illegible] peccatum [illegible]

[illegible] 5.

[illegible] peccati originalis [illegible] =

n.° 4.

[illegible] per [illegible] aliud [illegible]
adest [illegible] dicuntur nomine [illegible] mundi [illegible]
[illegible] cap. [illegible] 17. [illegible] de cons. dist. 4. qui enim secundum Adam [illegible]
[illegible] Christi [illegible] authoritate in cap. [illegible] 15. [illegible] dist. 4. [illegible] sicut [illegible] generatio
nocere potuit ut transfunderet in posteros vitium peccati, ita et multo magis donum Christi potuit transfundere [illegible]
[illegible] spiritualiter regenerantur, cum efficacius abundantius que sit donum Christi peccato Adae, ut [illegible]
ad Romanos cap. 5. docet D. Ambrosius relatus in cap. [illegible] de consecrat. dist. 4. [illegible]
per aquam baptismi transitus fieri de terrenis ad coelestia, hoc est transitus a peccato ad vitam, [illegible]
[illegible] ad justificationem, et tradit Leo Papa in epistola [illegible] de consecrat. dist. 4. [illegible]
[illegible] per baptismum novam creaturam [illegible] ex veteri, [illegible] homines [illegible]
filios Dei, hoc est justificari, ut habetur in Trid. sess. 6. de justificat. cap. 4. [illegible] D. Augustini
[illegible] cap. [illegible] dist. 4 ubi [illegible] Dominus profitetur [illegible] corporari Christo, et membrum
[illegible] reconciliari Deo ut in ipso [illegible] liberati, redempti et illuminati fiant; [illegible] Trid. Synodus
[illegible] sess. 5. de peccato originali cap. 5.° dicens si quis per Jesu Christi Dominum nostrum gratiam, quae in baptismo
confertur, reatum originalis peccati remitti negat, aut etiam asserit non tolli totum id quod veram et propriam rationem peccati habet, sed
[illegible] tantum radi, aut non imputari, anathema sit. =

n.° 5

Hic intelligendus venit difficillimus D. Augustini locus relatus
in cap. nemo 141. [illegible] de consecrat. dist. 4. ubi [illegible] dimitendo [illegible] originale [illegible]
adjuvando ne fiant et perducendo ad vitam [illegible] nos docere videtur [illegible]
D.or 1.° [illegible] per baptismum dimittere peccata facta hoc est actualia simul cum originali [illegible]
[illegible] auxilia specialia, ne iterum committantur. 3.° ad [illegible] vitam [illegible]
[illegible] redditur difficile [illegible] quia baptismus institutus est ad regenerandos homines, ut [illegible] quod traxerunt ex
carnali nativitate per spiritualem generationem aboleatur, ut constat ex cap. [illegible] 2.° [illegible] dist. 4. [illegible]
carnalem homo [illegible] solum originale peccatum cap. firmissime [illegible] de 4 [illegible] baptismus [illegible]
[illegible] colligi videtur ex cap. [illegible] et ex cap. nulla 142 [illegible] dist. 4. et ex cap. 2.° de presbitero non
[illegible] = [illegible] difficultate non obstante, vera et [illegible] assertio [illegible] habet non solum originale peccatum
sed etiam omnia peccata actualia commissa plene remitti [illegible], nec [illegible] probant; quia dum docent pec-
catum originale virtute baptismi, non negant tolli etiam actualia ante baptismum commissa, nec [illegible]
carne tantum [illegible] peccatum originale, regenerante autem [illegible] remissio omnium voluntariorum [illegible]
ut docet D. Thomas [illegible] cap. regenerante 106. in dist. 4. quoniam donum Dei in baptismo [illegible] abundantius
[illegible] peccato Adae ut [illegible] Apostoli ad Romanos cap. 5. [illegible]
[illegible] peccato originali [illegible] dimissa [illegible]
[illegible] cap. [illegible] de baptismo =

De baptismo

nu. 1 — Dicendum est, iuxta cap. nemo ... Aug. docet, nimirum baptismum ... peccata remittuntur ... carnis ... sed ... contendit aut ... et tollat fomitem ad peccandum ... sed similiter ... quia baptismus tollit concupiscentiam ... ut constat ex ... de consecrat. dist. 4 et in cap. ... eadem ... per ... baptismi ... infirmitatis nas... non inclinatione ... qua ... concupiscentia appellatur, relicta est enim per baptismum ... coronentur ... Trid. ... sess. 5 ... peccent. = Huic difficultati ... dicendum quamvis ... baptismi ... non tollat fomitem, seu concupiscentiam ad peccandum ... peccata ... ad ... tribuit ... fortitudo ... ad ... fomitis ... et ad implenda meritorie divina mandata, ut docet ... Ordinaria super illud ad Rom. cap. 6 ut ... corpus peccati, ubi sic scribit, si post baptismum ... dixerit homo in carne habet concupiscentiam cum qua pugnet ... eaque adiuvante Deo superet, et hoc ... D. Aug. ... in cap. nemo ... docet baptismum ... peccata ... sequitur ... quamvis ... poenalitates ... ut morbus ... fomes ... baptismum ... Deus vellet ... de facto ... tolluntur ... ad baptismum accederent ... praesentibus ... ut animadvertit D. Thomas ... 69 art. 3.

nu. 5 — Dubium quod in cap. nemo ... docet baptismum ... perducere ... peccata ... frequenter, memorat ... ad aeternam vitam beatitudinis perducere baptizatos ... difficile ... significat enim baptizatos ad aeternam vitam ... videbunt caelos ... Sanctus ... habet in cap. omnis qui 96. de consecrat. dist. 4 ... tentia ... suscipere baptismum ... D. Greg. ... in cap. ... dist. 4 ... in cap. ... 60 eadem ... Concilii Cartaginense 47 ... orationibus ... baptismus ... authoritatibus ... peccata remittit ... culpa ... de consecrat. de 4. cap. ... Trid. sess. 14 cap. ... baptizatos nihil obstat ad ... beatitudinem ... baptismi ... sess. 14 ... D. Aug. ... 8. cap. nemo baptismus ... perducere ad gloriam ... regni caelestis = Nec ... in controversia ... baptismo requisita, intelligendus ... dolore, et detestatione peccatorum ... praecedere debere baptismum ... Concilio Cartaginensi ... accipitur ... baptismum ... Cathecumenos habendum ... ad illud ... et peccata sua efficaciter detestentur ... Soto in 4. d. ... baptizatos ... baptismus ... = Succedit ... baptismi effectibus, ... remissio ... poenae ... et charitate sua ... obligat ... et hoc ... D. Thomas docet ... 69 art. 2. ... baptismus liberavit ... peccati ... in solis remittitur ... debitum ... peccatum mortale ... originale, sed etiam omnes

[illegible]

n. 7.

Decim[?] [illegible] posset debet sequens. Ideratis [illegible] ... remitti ... peccati mortalis adulti, et reliquum reatus poenae temporalis ... poena aeterna sive remissio fiat ... spiritus, sive extra illud, ... remissio per adulti baptismum ... absolute ... reatus poenae temporalis post remissionem culpam mortalis, vel venialis ... per baptismum ... spiritualis ... voluntatis Dei ... culpam ... temporalis, ut tradit D. Thomas ... diviniis judiciis aut decreto ... baptismus ... peccata sint coram Deo remissa, non tamen ... coram hominibus ad poenam humanam ... baptismus ... ad tollendum culpam ... coram hominibus ... multiplicandi publica peccata ante baptismum ... baptizari vellent, unde ... baptismus ... in foro exteriori ... Princeps ... baptismus soleat, et debeat poenam condonare, aut ordinarie minuere ... plurib. relatis tradit Tiraquellus de poenis temperandis causa 5. n. 6.

n. 8.

Adversus quamdoctrinam obstare videtur ... exemplo ... videtur probari ... baptismus tolli humanam poenam pro adulterio ... poenas, quod enim tribuitur ... remissio peccatorum, nullo magis in baptismo ... superiori numero tradita. Facile tamen hac difficultate liberabimur, si dicamus ... adulterio ... specialis quando poenam ... remissioni ... Mathei cap. 19. ... adultera ... uxorem ... adulterii ... D. Thomas ... de adulterio ... baptismi, aut ...

Marginalia:

Temporalis ... dissolvitur.

intelligitur tamen ... 7. n. 4.

colligitur ... hinc de ... adulterio ... n. 22

[illegible] ... ut [illegible] ... nec [illegible] dicere, [illegible] ... miserat[illegible] ... doctrina ... [illegible] ... de [illegible]

... [illegible] 93. [illegible] ... superior ... [illegible]

q. 7. [illegible] baptismi docent ... disp. 20. n. 6. et alij plures quos refert ... [illegible]

... de [illegible] cap. ... n. 3. et 4. ... cap. 19. n. 7. ... [illegible]

n. 9 ... [illegible] ... in cap. ... [illegible]

[Margin: ... [illegible] ... god. ... [illegible]]

... [illegible] ... nomine ... irregularitate ... [illegible] ... post baptismum ... post accept. ... post ... [illegible]

... ad diaconatum admitti debet, ... baptismi ... irregularitate. Augetur ... nec ... [illegible] ... ante baptismum celebrato c. 26. d. nec reputandus ... [illegible] ... cap. oportet ... 28. q. 3. ... [illegible] ... Difficultas ... irregularitas ... ante baptismum ... [illegible]

... Itaque dicimus nullum ante baptismum esse proprie capacem irregularitatis, quia nec ... cap. ... de presbitero non baptizato, nec ... [illegible] ... de homicidio cap. ... de ... excommunicationis ... [illegible] ... de irregularitate ... [illegible] ... irregularitatem ante baptismum ... intelligitur de quadam ... irregularitate, ... post baptizatum, ... post susceptum baptismum reddant irregulares, ... de irregularitate per baptismum tollenda ... ante baptismum ... aut defectus ... irregularis ... post baptismum.

n. 10

Dicimus 2.o ... ante baptismum homicidium ... aliud ve delictum ... ut ... irregularitas ... manere irregularis post susceptum baptismum ... [illegible] ... post ... quibus ... irregularitas ... post baptismum ... quia cum per baptismum culpa homicidij tollatur, et novam vitam ... homo, ... [illegible] ... delicti ante commissi ... irregularitatem ... [illegible] ... n. 2. ... [illegible] ... de homicidio, et alij plures, quos refert, ... [illegible]

... dicimus ... qui ante baptismum hominem ... sive peccato occidit, ut iudex, aut miles in bello ... [illegible] ... irregularis ... de homicidio ... ante baptismum ... irregularitatem post ... baptismum ... [illegible] ... quia ... defectus, ... talis irregularitas ... tollitur per baptismum ... homo fit ... alterius ... ut docent ... [illegible] ... censuris disp. ... dubio 1.o Licet ... in casu proposito irregularitatem minime tolli per susceptionem baptismi ... homicidij ... peccati, sed defectus ... qui adhuc post baptismum ... [illegible] ... 41. ... 28. q. 5. ... Gaspar Hurtado de irregularitate ... 20. n. 63. et alij plures quos refert, ... Villalobos ... de irregularitate ... n. 15. ... [illegible] ... doctrina ... Viduam 50 dist. ... post baptismum.

n. 11

Denique ... ante baptismum ... [illegible] ... D. Augustinus ... doctrina ... cap. ... 26 d. ... cap. ... 28 q. 3. et D. Ambrosius in cap. ... 26 dist. ... D. Hieronymus in cap. 1.o 26 dist. et in cap. oportet 28 q. 3. ... Doctores ... Canonicarum ... Summus Pontifex Innocentius ..., ... cap. ... Viduam ... dist. ... D. Thomas in 4.o de 27 q. 3. ... Theologi, et ...

[Margin: ... irregularitate ... [illegible]]

[illegible] quo [illegible] ex defectu [illegible] explendi [illegible] pus [illegible] Sacramenti [illegible]

[illegible] significationem [illegible] cum [illegible] quo [illegible] defectu [illegible]

[illegible] habent, indecentia ad ordinem sacros, ut morbus caducus, defectus membrorum [illegible] naturae

animi aut [illegible] Ideo dicitur quod infamia [illegible] irregularitas [illegible]

[illegible]

[illegible]

[illegible]

[illegible] ut Sacramenti [illegible] defectus [illegible]

[illegible] vera [illegible] defectus [illegible]

[illegible] ad [illegible] cap. 5. deinde [illegible] generalis [illegible] defectus [illegible]

[illegible] sacris requisitis, qui sunt alia causa huius irregularitatis [illegible] ut tradit Suarez de censuris [illegible]

sect. 6. n.o 14. Bonacina [illegible] punct. 5. n.o 18. =

n.o 12

Quibus explicatis iam [illegible] adiciendo, quamvis [illegible]

specie [illegible] aliis casibus ob delicta commissa ante baptismum [illegible] irregularitas post [illegible]

tamen [illegible] delinquentes liberari [illegible] legis Ecclesiae [illegible] ut [illegible] et maxime

irregularitas [illegible] introducta, sed in reverentiam [illegible] religio [illegible]

[illegible] itaque [illegible] quod irregularitas [illegible] culpa, licet [illegible]

[illegible] 6. [illegible] sect. 5. [illegible] alii plures [illegible]

[illegible] 15. [illegible] Canon 17 Apostolorum [illegible]

[illegible] presbiter, [illegible] diaconus aut minister [illegible]

[illegible]

[illegible]

[illegible]

[illegible] baptismum [illegible]

[illegible] baptismum [illegible] irregularitatem [illegible]

[illegible] cap. [illegible] de [illegible]

[illegible] cap. 20. n.o 15. [illegible]

n.o 13

[illegible] baptismi est Character [illegible]

[illegible] Concilio Florentino in decreto

[illegible] baptismus [illegible] Character [illegible] sess. 7. [illegible]

[illegible] cap. 4 [illegible] D. Paulo ad [illegible] Deus [illegible]

[illegible] Character [illegible] cap. 4 [illegible] Spiritum Sanctum [illegible]

[illegible] redemptionis [illegible] Patres qui Baptismum [illegible]

[illegible] Patres [illegible] baptismum [illegible]

[illegible] Bellarminus [illegible]

[illegible] baptismum [illegible]

[illegible] characterem [illegible] Bellarminus [illegible]

[illegible]

[illegible] Characterem [illegible] baptismo [illegible]

[illegible]

[illegible] baptismi [illegible] Character [illegible]

[illegible] non sufficiat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Tridentinum [illegible] [illegible]

[illegible] n. 14

[illegible] baptismus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] doceri [illegible] [illegible] [illegible] [illegible] aequaliter [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] docet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] D. Thomas [illegible] q. 69 art. 8 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] maiorem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quantum de se est aequaliter ad omnes suum calorem effundat, tamen de facto maiorem [illegible] [illegible] [illegible] [illegible] et minorem minus approximanti; [illegible] [illegible] [illegible] cap. 7 [illegible] medius, ubi [illegible] [illegible] gratiae [illegible] instrumentalis causa est baptismus docet [illegible] unicuique [illegible] dispositionem eius. Docent et Divus Thomas [illegible] art. [illegible] [illegible] [illegible], et ideo quidam plus, quidam minus de [illegible] novitatis accipiunt [illegible] de gratia sacramenti [illegible] tametsi minima [illegible] gratia baptismalis sufficiens sit ad delendam cuncta peccata, et [illegible] [illegible] [illegible] plura [illegible] [illegible] peccata delet [illegible] [illegible] [illegible] [illegible] efficacia [illegible] baptismi [illegible] [illegible] [illegible] [illegible] [illegible] solvit quodcumque invenerit [illegible] baptismus [illegible] habere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] per accidens; [illegible] [illegible] [illegible] [illegible] in magno Imperio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] D. Thomas ubi [illegible] art. 8.

n. 15

Succedit alia minus difficilis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] accedens ad baptismum absque debita et sufficienti dispositione [illegible] hypocrisi, seu [illegible] [illegible] [illegible] nobis propositam [illegible] quam ut decidamus [illegible] [illegible] [illegible] [illegible] baptismum [illegible] voluntate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] opere externo, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] intendens [illegible] [illegible] caret fide [illegible] [illegible] [illegible] [illegible] [illegible] Dei. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] baptismum nullam conferre gratiam [illegible] [illegible] [illegible] [illegible] [illegible] sacramenti [illegible] valere, et caracter [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de baptismo, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] caractere, et fide [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] peccatoris, [illegible] illud Sapientiae cap. 1 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] fictis, docet [illegible] D. Augustinus [illegible] [illegible] [illegible] 32 [illegible] ad [illegible] [illegible] cap. [illegible] 41. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Augustinus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacramenti [illegible] [illegible] [illegible] [illegible] illud [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] illud [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] baptismi, et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] peccata, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacramenti [illegible] [illegible] [illegible] [illegible] peccati, [illegible] [illegible] [illegible] [illegible] [illegible] sententia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 66 [illegible] [illegible]

n. 16

[illegible] [illegible]

[illegible]

[illegible] sacramenti [illegible] recedente fictione [illegible]

Vel [illegible] per [illegible] recedunt [illegible]

[illegible]

[illegible] Antoninus [illegible] 23. [illegible]

[illegible] dicamus [illegible] numero proposito. =

n.° 27.

[illegible] recedente [illegible]

[illegible] inter priorem et posteriorem [illegible] fictionem, [illegible] quae impediunt baptismi valorem, quamvis postea recedat, [illegible] ut baptismus [illegible] cum valor baptismi [illegible] dependeat a sola voluntate [illegible], sed [illegible] ab intentione ministri [illegible] materia, et forma ut [illegible] dicemus, [illegible] deficiant [illegible] valere baptismi [illegible] voluntas [illegible] fictio removeatur. [illegible] fictio, [illegible] fidei, et doloris [illegible] removeatur [illegible] sufficienti [illegible] fictione [illegible]

[illegible] recedente [illegible] regeneratio [illegible] Thomas [illegible] 23. = [illegible] Confirmatio [illegible] baptismus [illegible] remissionem peccati originalis [illegible] Catechumeno [illegible] recedente fictione [illegible]

[illegible] =

n.° 28.

[illegible] recedente [illegible] remissionem peccati originalis [illegible] baptismus [illegible] remissionem peccatorum [illegible] recedente fictione [illegible] baptismi [illegible] recedente fictione [illegible] remissionem peccatorum [illegible] moraliter [illegible]

Nec

[illegible] consideratio nulla [illegible] de fide [illegible] valorem baptismi [illegible]
[illegible] et forma [illegible] [illegible]
[illegible] moraliter operari, [illegible] fictio [illegible]
[illegible] ubi [illegible]

n.º 49

[illegible] nunc [illegible] [illegible] fictio tota [illegible]
[illegible] operari [illegible]. Sufficiat [illegible] fictio ad [illegible]
removendam. [illegible]
[illegible]
[illegible] fide [illegible] tamen fide [illegible]
[illegible] peccat, aut [illegible]
[illegible] cum peccat, [illegible] ad [illegible] peccat [illegible]
[illegible] 4. [illegible]
[illegible] baptismi [illegible]
[illegible] baptismi [illegible]
baptismo [illegible], atque ideo [illegible] ad [illegible] spiritus, [illegible] ad baptismum [illegible] tollitur peccatum [illegible]
[illegible] ante baptismum [illegible] 10 de bapt. [illegible] authoritate [illegible]
[illegible] Valore de Correctione [illegible] 4 ita intelligendus, ut bene docent D. Thomas [illegible] q. 69 art. 10 ad [illegible] Suarez [illegible] disp. 28
sect. 4. et 5. Vasquez disp. 159. cap. 3. et disp. 160 per totam Valentia [illegible] atque hinc [illegible]
lib. 5. cap. 9. et disp. [illegible] 160 per totam. [illegible] =

n.º 50

Sed in hac materia [illegible] offertur hic difficultas, quod talis fictio [illegible]
[illegible] inter peccata precedentia baptismum [illegible] peccatum [illegible] in voluntate [illegible] baptismi, at talis
voluntas [illegible] baptismi [illegible] peccatum [illegible] baptismus, ac per [illegible] ad baptismum pertinet, et tolliter [illegible]
[illegible] fictio [illegible] attritione. = Huic difficultati [illegible] dicendo, quod [illegible] voluntas [illegible] peccatum baptismi
[illegible] ad peccata baptismum precedentia, hoc autem [illegible]
baptismi, et [illegible] peccatum [illegible] baptismi [illegible] baptismo [illegible]
[illegible], [illegible] aliquem baptizari, sive recipere baptismum, [illegible] baptizari, [illegible] recipere
baptismum, quamvis sint simul in eodem temporis instanti, [illegible] quoad [illegible]
[illegible] producat gratiam, unde [illegible] recipit baptismum, quia apponit impedimentum effectui gratiae, [illegible]
[illegible] baptismum producit quoad characterem [illegible] propterea dicitur [illegible] baptismi [illegible]
[illegible] charactere [illegible] = [illegible] D. Aug. [illegible]
Valere, [illegible]
[illegible] sed [illegible]
[illegible] peccatum [illegible] baptismi, [illegible] peccatum [illegible] post
baptismum [illegible] nec quodlibet aliud mortale post baptismum [illegible]
[illegible] peccatum [illegible]
[illegible] peccatum mortale post baptismum [illegible] =

n.º 51

[illegible] difficultas [illegible] peccata [illegible]
[illegible] peccata [illegible] post baptismum remittuntur [illegible]
[illegible] baptismum, [illegible] baptismum [illegible] peccata
[illegible] remissa [illegible] mortale [illegible]

[illegible] Valere [illegible] [illegible] ... remissi peccatorum [illegible] [illegible] ...

[illegible]

... sanativa, et reparativa, [illegible] modo [illegible] ... peccati [illegible]

et Originalis. distinguuntur tamen formaliter distinctione [illegible] ... sanativa quatenus refertur ad peccatum [illegible] post baptismum, reparativa quatenus refertur ad peccata [illegible] ante baptismum, et ad Originale [illegible] distinctionem sufficientem [illegible] [illegible] ... partialis [illegible] [illegible] ... integram et totalem. = Nec huic obstat quod [illegible] illud [illegible] mus, nempe fidelis [illegible], et peccata [illegible] baptismum remittuntur per [illegible] reliqua [illegible] remitti [illegible] baptismum, quoniam hoc intelligitur de [illegible] illud [illegible] illud [illegible] quatenus [illegible] adiuvant, [illegible] integram, et totalem causam. = Nec magis [illegible] [illegible] ... peccata, [illegible] peccata praecedentia [illegible] fidelis [illegible] peccata [illegible] baptismum [illegible] ... ad illud [illegible] causam remissionis peccatorum, [illegible] antecedens intelligendum [illegible] [illegible] ... mortalia [illegible] contra [illegible] ad remissionem [illegible] ... formaliter [illegible] remissio [illegible] quodcumque peccato mortali, sed [illegible] nullum peccatum mortale [illegible] remitti [illegible] ... ab homine [illegible] =

[illegible]

[illegible] ... causam [illegible] ... sufficientem [illegible] ... quae habet, sed gratia [illegible] ... sanativa, sed et reparativa [illegible] ... remitteret peccata [illegible] post baptismum [illegible] dicitur sanativa, sed [illegible], et Originale [illegible] reparativa [illegible] ... ad [illegible] quatenus reparativa, sed [illegible] sufficiat [illegible] = [illegible] ... sufficere [illegible] ... sanativa, sed [illegible] reparativa, [illegible] ... tamquam medium necessarium ad remissionem originalis, et actualium [illegible] ... remittere originale et actualia ante baptismum [illegible] ... remissionem [illegible] peccatorum [illegible] = [illegible] ... baptismi [illegible] peccatorum [illegible] ... peccati [illegible]

[illegible]

Tractatus de Sacramento Poenitentiae ad expositionem [illegible] authoritatis quae extant in Decreto Tridentini [illegible] distinctionibus

[illegible]

Decretum [illegible] Concilii [illegible] tractat [illegible] [illegible] fidelibus [illegible] [illegible] [illegible] peccatum [illegible] [illegible] [illegible] post baptismum [illegible] homo [illegible] [illegible] per [illegible] lapsi post baptismum [illegible] [illegible] de [illegible] [illegible] de reformatione capitulo 14. [illegible] peccata mortalia [illegible] [illegible] [illegible] nobis [illegible] [illegible] commentarios [illegible] D. Thomam [illegible] 84 [illegible] [illegible] [illegible] professores [illegible] de Poenitentia [illegible] [illegible] [illegible] articulis deo dante diligenter [illegible]

Articulus 1. In quo nomen et [illegible]

[illegible] exponitur [illegible] explicatur [illegible]

[illegible] q. 84 [illegible] [illegible]

[illegible] 4 [illegible] [illegible] 6.

[illegible] inter scriptores [illegible] unde hoc nomen [illegible] derivetur, [illegible] [illegible] dicitur [illegible] [illegible] tenere [illegible] [illegible] Silvester [illegible] [illegible] Bellarminus [illegible] de [illegible] Navarrus [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] hoc nomen [illegible] dicitur [illegible] [illegible]

[illegible]

[illegible] 1

[illegible]

[illegible]

peccatorum, dolor et afflictio [illegible] ut colligitur ex [illegible] ibi [illegible] lucta, planctu [illegible] et [illegible] excommunicatis [illegible] [illegible] et denique extat [illegible] [illegible] mutare [illegible]

[illegible] [illegible] poenitentiae dolor, [illegible] humilitatibus [illegible] [illegible] quae poenitentia [illegible] veteris ut [illegible] [illegible] 96. de [illegible] mutatio [illegible] terminos [illegible] recedat [illegible] ad [illegible] [illegible] Tiro [illegible] ad Colossenses 3 [illegible] novum et induitam [illegible] [illegible] Creatio [illegible] 19. [illegible] [illegible] Patres [illegible] Valencia [illegible] [illegible] Ambrosius [illegible] undecimo [illegible] versu [illegible]

[illegible]

[illegible] 24 et [illegible]

n.º [illegible]

[illegible] Vicarius [illegible] [illegible] quemadmodum [illegible] [illegible] [illegible] dolor externus [illegible] [illegible] Sancta Catholica Romana [illegible] sacris [illegible] [illegible] Patrum [illegible] et sacris Scripturis [illegible] [illegible] dolor et afflictio [illegible] exemplar [illegible] antecedenti [illegible] [illegible] Navarrus [illegible] sufficit [illegible] Belarminus [illegible] [illegible] damnavit anathemate [illegible] Trid. [illegible] 14. c. 4. et cap. 8. [illegible] de sacram. poenit. et [illegible] Medina de poenit. 2.º q. 2. Patrum de toto [illegible] selectis [illegible] Suarez et Balarminus [illegible] [illegible] refert et sequitur [illegible] Barbosa [illegible] ad Trid. [illegible] 14. c. 4. et [illegible] citatis. =

n.º 4. Similiter et varias habet significationes nomen poenitentiae [illegible] quotiescunque aliquem poenitet facti vel omissi, sive sit boni, sive mali [illegible] poenitentiam agere [illegible] prioris sententiae, seu consilii mutatio [illegible] 4. [illegible] [illegible] 32. [illegible] de donat. inter virum et uxorem, et [illegible] pluribus [illegible] Gutierrez de Iurato Confirmatorio 1. p. c. 35. [illegible] [illegible] 11. [illegible] Ant. Gomez [illegible] var. c. [illegible] n.º 4. Parladorius [illegible] 32. Sarmiento [illegible] Selecti. cap. [illegible] n.º 13. [illegible] [illegible] [illegible] admisit [illegible] poenitentiam agere [illegible] [illegible] [illegible] data [illegible] [illegible] delinquendi, aut [illegible] ut animadvertit Donellus [illegible] 14. [illegible] et 4. [illegible] Ohaldus [illegible] [illegible] =

n.º 5. Deinde poenitentiae nomine solent ipsius poenitentiae partes significari [illegible] ipsa [illegible] sacramentalis [illegible] manifestatio interna poenitentiae, seu dolor [illegible] absolutio, seu sacramentum [illegible] multiplex 49. de poenit. d. [illegible] [illegible] Trid. [illegible] 14. c. 1. [illegible] ipsa [illegible] orationes, et similia [illegible] de poenitentiis et remissionibus [illegible] appellare [illegible] [illegible] Tertulliano et aliis Patribus [illegible] Cardinalis [illegible] 10. [illegible] 56. n.º 16 et 17. [illegible] animadvertit [illegible] Tertulliano de poenit. [illegible] [illegible] peccatorum [illegible] poenit. [illegible] veniae, reconciliatio [illegible]

Partes illius [illegible] poenitentiae significari

nominari [illegible]

[illegible] Antonius [illegible] ad verbi [illegible], et [illegible] [illegible] Bellarminus [illegible] [illegible] confirmat [illegible] Albertus [illegible] =

n.o 6

Dem [illegible] [illegible] [illegible] 2a tabula [illegible] [illegible] in candelabro aureo [illegible] [illegible] [illegible] Vita [illegible] [illegible] [illegible] tabula [illegible] [illegible] Valentia [illegible] tract. de poenit. [illegible] Theologi generalis [illegible] tract. 6. de poenit. [illegible] Praeceptor [illegible] D. Thomas 3. p. q. 84. art. [illegible]

= Tractatus 2us de poenitentia, definitur quatenus est virtus =
= et quatenus est sacramentum [illegible] =
= utriusque [illegible] differentia =
= [illegible] =
= [illegible] 40 [illegible] =
= [illegible] =

n.o 1.

Poenitentia aut consideratur tanquam virtus, aut tanquam sacramentum; utroque modo hoc [illegible] [illegible] quaerere licet [illegible] Scripturas [illegible] [illegible] [illegible] virtus [illegible] [illegible] affirmant, illam absolute esse virtutem, nec ei nomen [illegible] speciale [illegible] attribuunt, aliqui [illegible] virtutis [illegible] [illegible] [illegible] [illegible] dicimus [illegible] [illegible] [illegible] virtus [illegible] [illegible] amor naturalis [illegible] humanus [illegible] spiritualis [illegible] spiritualis medela [illegible] dolor de peccatis [illegible] [illegible] virtus specialis [illegible] quilibet virtus [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Deo [illegible] [illegible] [illegible] specialis virtus [illegible] [illegible] poenitentia esse virtutem specialem [illegible] [illegible] [illegible] cum emendationis proposito, ut [illegible] docet Divus Thomas 3. p. q. 85. art. [illegible] =

n.o 2.

Hinc [illegible] [illegible] [illegible] peccati [illegible] [illegible] dolore interiori [illegible] [illegible] [illegible] poenit. [illegible] [illegible] [illegible] de sacramento poenit. cap. 4. [illegible] interiori dolore [illegible] [illegible] [illegible] [illegible] [illegible] medicina 76. [illegible] 777. [illegible] [illegible] de [illegible] poenit. [illegible] [illegible] 14. [illegible] 3. [illegible]

[illegible] ... de 4. Deinde vero [illegible]

[illegible] Schagania [illegible] 1°. [illegible]

[illegible]

[illegible] Turrecremata [illegible] Bellarmino [illegible]

[illegible] Doctores [illegible] ad 3. [illegible] 3. et 4. [illegible]

[illegible] peccatum [illegible] ex [illegible]

[illegible] Virtutes [illegible]

[illegible] ... dissolvatur animadvertimus [illegible] ... ad [illegible] verbis et [illegible] Angelici [illegible] doctrina, et hoc merito [illegible]

[illegible] poenitentia [illegible] Deo [illegible] dolores, et detestatio [illegible] peccati [illegible] causae, [illegible] compensatio, et [illegible] facto [illegible] peccato [illegible] sit mala remota, [illegible] convertere [illegible] culpas. = Vel si hoc [illegible] poterit dicere poenitentia versari circa malas culpas [illegible] Virtutes [illegible] versari circa [illegible] bonum [illegible] malum, [illegible] peccati =

Secunda difficultas, [illegible] nihil aliud [illegible]

Velle [illegible] peccati [illegible] 4 de poenitentia d. 3. [illegible] hoc Velle [illegible] impossibile [illegible] peccata [illegible] Paulus 11, [illegible] 5. [illegible] 12. [illegible] [illegible] poenitentia [illegible] difficultas [illegible] dissolvere [illegible] de poenitentia [illegible] ad [illegible] 42 caput, [illegible] Angelicus [illegible] de loco [illegible] illud [illegible] facto [illegible] offensa Dei, [illegible] Virtus [illegible] de poenitentia [illegible] et in hoc [illegible] Virtus poenitentiae [illegible] caput. [illegible] de poenitentia [illegible] D. Gregor. in [illegible] caput poenitentiae 6. in [illegible] de poenitentia [illegible] 3. [illegible] magna [illegible] peccati Virtus poenitentia. =

n.° 6.

Pro exercitio proponenda venit definitio poenitentiae tamquam sacr[amenti]

Licet ab interpretibus varie designatur, verum [illegible] poenitentia sit sacramentum remissionis peccatorum [illegible] [illegible] constat ita ex Trid. [illegible] 6. [illegible] can. 14. et 19. [illegible] de poenitentia capite 1°. ex [illegible] Concilio Constantiensi [illegible] 3. Concilio Cabilonensi capite [illegible] docent Villalobos in summa [illegible] Bonacina [illegible] Sacramento [illegible] 5. [illegible] punct. 2°. D. Thomas [illegible] 2. [illegible] 4°. [illegible] art. 2°. [illegible] Verbis sacris [illegible] poenitentiae [illegible] sacramentum [illegible] remissionem peccatorum, et [illegible] sacramentum [illegible] [illegible] remittuntur [illegible] peccata [illegible]

Bellarminus de [illegible] lib. 2 cap. 27. D. Thomas [illegible] q. 61. [illegible] [illegible] [illegible] Concil. Trident. sess. 14 de poenit. cap. 3. [illegible]

Doctrina de [illegible] [margin note]

n.º 7

[illegible] [illegible] ad remittenda [illegible] peccata [illegible] [illegible] remittuntur, ut statuitur Trid. sess. 5. de peccato originali [illegible] 3. [illegible] peccatum [illegible] ante Baptismum [illegible] sacrum [illegible] remittit [illegible] pendet [illegible]

Vincentius [illegible] lib. [illegible] cap. 6. et cap. 9. [illegible] [illegible] [illegible] D. Pauli ad [illegible] cap. 5. [illegible] Adam [illegible] [illegible] de [illegible] docet [illegible] lib. 7. de [illegible] cap. [illegible]. Accedit ad Baptismum [illegible] [illegible] sacramentum [illegible] [illegible] [illegible] Tridentinum [illegible] [illegible] [illegible] de poenit. [illegible]

n.º 8

Hinc [illegible] [illegible] Catholici [illegible]

[illegible] Domino [illegible] de Summa Trinit. et fide Catholica [illegible] ad [illegible] Trid. sess. 14. de [illegible] [illegible] [illegible] poenit. capite. [illegible] [illegible] Dominus post [illegible] [illegible] [illegible] accipite Spiritum Sanctum, quorum remiseritis peccata remittuntur eis [illegible] [illegible] [illegible] Tertullianus [illegible] Hieronymus, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de poenit. [illegible] [illegible] [illegible] [illegible] [illegible] in [illegible] [illegible] Concilio [illegible] [illegible] [illegible] Florentino [illegible] in Decreto [illegible] de Unione Armenorum [illegible] [illegible] [illegible] denique de [illegible] de fide [illegible] Trid. sess. 14 can. [illegible] [illegible] =

n.º 9

Probatur superior doctr. [margin]

Facit [illegible] doctrinam confirmat [illegible] [illegible] [illegible] sacramento [illegible] externa Ceremonia, seu [illegible] [illegible] absolutio [illegible] remittendis peccatis [illegible] remissio [illegible] remissio peccatorum [illegible] absolutioni [illegible] annexa [illegible] remittuntur eis, ideoque [illegible] Sacerdotibus ministrandum [illegible] cum [illegible] Christus [illegible] [illegible] [illegible] in sacerdotium successoribus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] D. Hieronymus epist. [illegible] ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] errores, de quibus [illegible] [illegible] Bellarminus [illegible] de poenit. [illegible] [illegible] Valencia [illegible] disp. 7. q. [illegible] [illegible] [illegible] disp. 4. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] peccatorum ministerio sacerdotis [illegible] [illegible] [illegible] [illegible] [illegible] rem [illegible] [illegible] =

n.º 10

[margin] poenit. [illegible] [illegible] [illegible]

[illegible] [illegible] Catholici [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] D. Pauli [illegible] cap. 26. [illegible] 22. [illegible] [illegible] [illegible] Trid. sess. 14 de poenit. cap. [illegible] [illegible] [illegible] [illegible] adhuc [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Absolutio. [margin] [illegible] singulorum peccatorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Apostolus, [illegible] [illegible] Prophetas [illegible] [illegible] [illegible] [illegible] [illegible] accipiendi remissionem peccatorum [illegible] [illegible] D. Pauli [illegible] cap. 26, [illegible] Apostolus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

quibus in tempore sacri poenit[entiae] incapaces erant, hi ex neque [illegible] Paulus [illegible] extra [illegible] effectus loquitur, cum de sacramento poenit[entiae] intelligatur, [illegible] prophetis licet [illegible], et [illegible] propter [illegible] ipsius [illegible] Deo [illegible] docent [illegible] Bellarminus, et [illegible] locis [illegible] =

[illegible] n[umer]o 84. § [illegible]

n° 11

Dif[ficultas]

[illegible] cum [illegible] Catholicis [illegible] numerentur, [illegible] baptismus, et Eucharistia [illegible] sacramentum [illegible] numero [illegible] Dicitur poenit[entia] [illegible] aliquid [illegible] de septenario numero de [illegible] quam [illegible] dicimus [illegible] septenarium [illegible] sacramentalium [illegible] habebat [illegible] exempla [illegible], dicebat enim [illegible] intelligatur [illegible] corporalis [illegible] ut sensibilis [illegible]

Sol[vitur]

[illegible] ad [illegible] exhibetur [illegible] quam [illegible] videtur poenit[entia] [illegible] a Deo [illegible] quam a ministris [illegible] sacri [illegible]. Cum dubio ut respondeamus dicimus in sacramento poenit[entiae] [illegible] poenitentis, qui [illegible] accipiuntur, provenire ex [illegible] divina, et auxilio Dei, quae [illegible] exhibetur a ministris, sed a Deo interius operante, [illegible] sacerdos [illegible] absolvit poenitentes, [illegible] licet [illegible] exhibeat: corporalis [illegible] sensibilis [illegible] sacramenti [illegible] perficit [illegible] absolut[ionem] [illegible] ministri [illegible] sacrament[um], [illegible] sacrament[i] [illegible] dolore, [illegible] poenitentis, et hoc [illegible] auth[oritate] [illegible] docet Bellarminus lib. 1. de poenit[entia] cap. 16 [illegible] =

Dif[ficultas]

n° 13

4ª. difficultas ex sequenti [illegible] oritur, quia ad [illegible] requiritur, ut a ministro [illegible] adhibeatur aliquid [illegible] externa [illegible] quam [illegible] ubi [illegible] sacramentum [illegible] August[inus] authoritate [illegible] ad Bonifacium [illegible] accedat [illegible] ad elem[entum] [illegible] [illegible] probat [illegible] de [illegible] n[umer]o 84. § [illegible] 13. de Eucharistia cap. 3. [illegible] nulla res externa adhibetur a ministro, ut [illegible] sacr[amentum]. = [illegible] a Christo fuerit [illegible], ita ut in [illegible] confessio [illegible] externum, [illegible] sensibilis, ut [illegible] sacramentum, sufficit [illegible] ut [illegible] aliquod sensibile sacramentum [illegible] possit habere [illegible] res corporalis externa [illegible] aliquid [illegible] qui percipiuntur [illegible] in sacro autem poenit[entiae] si externi actus sensibiles [illegible] qui fiunt per externam poenitentis [illegible] absolutio pronunciata a sacerdote voce [illegible] ut docet Bellarminus [illegible] de poenit[entia] c. [illegible], nec [illegible] auth[oritate] [illegible] dumtaxat [illegible] est de sacramento bapt[ismi] [illegible] et [illegible] nisi aqua, et quamvis fateamur [illegible] sacri [illegible] sensibili [illegible] sacramento [illegible] materia exterior ablutio exhibetur, ut interior ablutio Spiritus Sancti significetur, sic in sacro poenit[entiae] ad [illegible] remissionem peccatorum pro materia habentur externi actus [illegible] poenitentis. =

n° 14

5ª. difficultas

5ª. objectio oritur ex [illegible] Dominus noster [illegible] quorum remiseritis peccata, remittuntur eis, dedit illis potestatem remittendi peccata [illegible] fidelium

infidelis, ut patet ex D. Luca cum ea postulto de labs vestic loquitur, oportebat in nomine eius praedicare penitentiam, et remissionem peccatorum in omnes gentes; igitur [illegible] remittendarum peccata fidelibus post baptismum commissa, ac per quod [illegible] Trinitate [illegible] dubio [illegible] si dicamus [illegible] remittendi peccata a Christo dicto Apostolis datam, sed ad id quod dictum fuerat a Prophetis praedicare [illegible] et remissionem peccatorum in nomine eius omnes gentes, [illegible] Apostolis [illegible] remittendi peccata fidelibus ut patet ex D. Paulo ad Corinthios cap. 5. Versu 18. Deus [illegible] ministerium reconciliationis [illegible] posuit nobis modum reconciliationis, cum dixit quorum remiseritis peccata, hoc [illegible] ministerio reconciliationis [illegible] fidelibus [illegible] Bellarminus [illegible] et Decanus [illegible] =

n.º 15 — Denique obstare videtur quod [illegible] distinguendum [illegible] tantum, restantem, [illegible] facile, [illegible] ex munere remittendi [illegible] respondeo [illegible] distinguimus [illegible] sacramento [illegible] 47 [illegible] in quo [illegible] sacro [illegible] significatur, restantem quod significatur [illegible] significat remissionem [illegible] significat, [illegible] sacramentum tantum [illegible] confessio, et absolutio [illegible] significat, restantem est remissio peccati quae significatur, et significat res et sacramentum [illegible] quae sacramentum [illegible] partialiter, [illegible] pars essentialis sacramenti simul cum confessione et absolutione significat, et confert gratiam sanctificantem, [illegible] remissionem peccati, et [illegible] confessio et absolutio significatur, [illegible] docent D. Thomas 3. p. q. 84 art. 10. ad 3. et Gabriel Vasquez [illegible] dubio 3. Suarez de poenitentia disp. 8. sect. 5. [illegible] =

n.º 16. — Consequenter iam venit inquirendum in quibus poenitentia virtus et [illegible] sacramentum conveniant, et differant. Itaque certum est in multis inter se convenire. 1.º quia utraque est actus [illegible] destructivus peccati [illegible] 2.º in ratione medicinae utilis ad curandum [illegible] peccatum actuale etiam si sit mortale. 3.º conveniunt in metaphora illa, ut utraque sit secunda tabula post naufragium ut [illegible] diximus [illegible] = 4.º in materia circa quam [illegible] est peccatum actuale, quod respicit ut obiectum materiale. = 5.º in subiecto, nam una et altera habet locum dumtaxat in adulto qui sit capax actualis peccati. = 6.º in eo quod utraque [illegible] = 7.º in effectu quia utriusque effectus est [illegible] hominis in gratia et amore Dei, docent D. Thomas 3. p. q. 84. art. 5. Suarez de poenitentia disp. 1. sect. [illegible] Bastora [illegible] cap. 1. de poenitentia [illegible] refert. =

n.º 17 — Verumlicet in his conveniant, differunt tamen in sequentibus. 1.º in origine, nam quatenus est virtus est de iure naturali ut patet [illegible] de poenitentia [illegible] quatenus vero sacramentum [illegible] gratia ex institutione Christi [illegible] = 2.º in subiecto, nam quatenus virtus est applicatur etiam catechumeno, quatenus vero sacramentum applicatur dumtaxat baptizato. = 3.º in ipsis rationibus sacramenti et virtutis, quia ut sacramentum est signum quoddam sensibile interioris satisfactionis, et remissionis peccati quae [illegible] significat [illegible] absolutio sacerdotis, ut virtus vero [illegible] actus humanus [illegible] = 4.º in actibus suis, nam ipsum ut sacramentum est actus exterior [illegible] signum sensibile, ut virtus autem est actus interior, [illegible] actus interioris [illegible] = 5.º in obiecto, quia quatenus est virtus includit [illegible] peccatorem [illegible] promissa Dei ut remittat [illegible] at quatenus sacramentum [illegible] includit [illegible] sufficit [illegible] attritio, quia accedente virtute sacramenti solet [illegible] et hoc [illegible] actus attritionis [illegible] actus [illegible] peccator [illegible] attritus [illegible] significatur [illegible]

Margin notes: [illegible] — [illegible] 20. — Conveniunt [illegible] — [illegible] — In multis conveniunt et [illegible] tamquam [illegible] conveniunt. = — In multis differunt

Veram [illegible] = [illegible] sacris [illegible] sive [illegible] consistentiae judex, [illegible] accusator, spiritus [illegible] formam [illegible] poenitens [illegible] judex, [illegible]. = 7° differunt in modo causandi remissionis peccati [illegible] cum [illegible] ut virtus, tamen [illegible] causa [illegible], tanquam [illegible] causa efficiens, [illegible] sacramentum ex opere operato, [illegible] disponitur operantis, [illegible] de condigno [illegible] D. Thomas, Belarminus, Suarez [illegible].

[illegible] Denique ut rem hanc perfecte explanemus [illegible] dispositio [illegible] agitur de spiritu tanquam virtute, [illegible] spiritus in baptismo cum [illegible] Dei nomine [illegible] baptismi [illegible] de [illegible] Catechismus [illegible] Apostolorum [illegible] spiritus [illegible] poenitentia [illegible] praecedere debebat baptismum [illegible] cap. [illegible] 90 [illegible] spiritus [illegible] baptismum [illegible] = Ex quo [illegible] baptismum multum differre a poenitentia, [illegible] formae [illegible] diversae sint, [illegible] remittendi peccata diversimode ex [illegible] sacro [illegible] ut constat ex Trid. [illegible] 14. cap. 2° [illegible] refutandus [illegible] error [illegible] qui [illegible] spiritus [illegible] baptismo, [illegible] peccata post regenerationem [illegible] quod damnat [illegible] 2°, [illegible] eleganter Belarminus [illegible] 1. de poenit. [illegible] consequenter. =

n°. 19 [illegible] ex [illegible] relata in cap. [illegible] de poenit. dist. 1. [illegible] ut facit baptismus, hoc facit poenitentia, ex quibus [illegible] baptismum et poenitentiam, nec diversa sacramenta [illegible], nam D. Hieronimus [illegible] sententia [illegible] poenitentiam separavit diversitatem, [illegible] remittunt peccata, tamen diverso, nam per baptismum remittuntur peccata [illegible] originalia [illegible] actualia, [illegible] culpam, [illegible] quoad [illegible] poenitentia [illegible] originalia [illegible] actualia duntaxat remittuntur semper quoad poenam, [illegible] quoad culpam [illegible] de poenit. [illegible] in cap. [illegible] de poenit. [illegible] 4. [illegible] in baptismate. [illegible] assertionis [illegible] dependet quia baptismus [illegible] regeneratio [illegible] novus efficitur homo, poenitentia [illegible] medela [illegible] post baptismum [illegible] Deo reconciliamur [illegible] Trid. [illegible] 7. can. [illegible] 14 [illegible] 2°. docet Suarez [illegible] de poenit. [illegible]

n°. 20. [illegible] Clemens Alexandrinus [illegible] apud [illegible] 3. historiae ecclesiasticae c. 27. [illegible] appellat [illegible] poenitentiam baptismum lacrimarum, [illegible] voluit idem esse [illegible] baptismum et poenitentiam, nec [illegible] poenitentiam verum baptismum, sed lacrimarum baptismum, [illegible] baptismum [illegible] tolluntur peccata sicut baptismo [illegible] poenitentiae lacrimas, [illegible] ad remissionem [illegible] peccatorum [illegible] adimatur, [illegible] Trid. [illegible] 14. cap. 2°. [illegible] Alexandrinus [illegible] baptismus laboriosus, docet Suarez [illegible] sect. [illegible] Augustinus [illegible] 2° de adulterinis [illegible] cap. 16. [illegible] catechumeno [illegible] baptismate [illegible] poenit. [illegible]

= Secundo articulo. =

= Articulus 3us de diversis poenitentiae [illegible] = [illegible] 8. de poenit. [illegible] cap. [illegible] 63, [illegible] =

= [illegible] =

n°. 1° [illegible] plures spiritus [illegible] sacra pagina, quam in sacris canonibus [illegible], [illegible] hominis, alia Dei, [illegible] Dei [illegible] in concilio Toletano [illegible] [illegible] 22 [illegible] spiritus [illegible] malo [illegible] [illegible] malo [illegible]

[illegible]

Quaeritur [illegible] debeat intelligi [illegible] Dei [illegible] in Deo cadit, sed metaphorice [illegible] quasi [illegible] Deum [illegible] nihil aliud [illegible] est posse mutare suam dispositionem [illegible] poenitentiae [illegible] sequentia Tertulliani [illegible] [illegible] Deum [illegible] [illegible] sententias tradunt [illegible] Bellarminus, Bona [illegible] et [illegible] [illegible].

[illegible] [illegible] in sermone [illegible] consideraverit, [illegible] [illegible] in fine vitae cap. finali de poenitentia [illegible], et ita vocatur [illegible] quia prodest in [illegible], [illegible] nemo desperet [illegible] dum in hoc corpore [illegible] [illegible] disp. [illegible] [illegible] difficilis, et periculosa [illegible], et multos decipere solet [illegible] in [illegible] tempus quo mors [illegible], [illegible] quo in tempore multa occurrunt, quae debebant [illegible] [illegible], et vera poenitentia. Cum haec fieri solet [illegible] [illegible] amore Dei [illegible] [illegible] [illegible] poenitentia [illegible] Thomas in [illegible] disp. [illegible] art. [illegible] [illegible] [illegible] cap. [illegible] de poenitentia disp. 3, veluti quando peccatis [illegible] peccatum [illegible] [illegible] importerimus [illegible] poenitentia reiteranda est quoniam [illegible] [illegible] [illegible] cavendi [illegible], [illegible] [illegible] cap. [illegible] [illegible] [illegible] dicentes intrate [illegible] [illegible] [illegible] reducit ad remedium peccatorum ut constet [illegible] solo in [illegible] disp. 27. [illegible] art. [illegible] Similiter alia poenitentia est privata [illegible] solemnis. Privata est illa de qua nunc usque [illegible] actum est tamquam [illegible] [illegible] publica [illegible] [illegible] [illegible] [illegible] [illegible].

Itaque publica, et solemnis poenitentia illa [illegible] solemniter fieri solebat, et tantum pro gravi [illegible] criminibus universum populum [illegible], et [illegible] scandalis causantibus imponi solebat veluti pro homicidio, adulterio, et aliis similibus [illegible] disp. cap. [illegible] cap. [illegible] 33 [illegible] cap. [illegible] [illegible] minus [illegible] fuit [illegible] 12. [illegible] 33 [illegible] notat [illegible] in cap. poenitentes 63. [illegible] neque sufficiebat in foro conscientiae [illegible] [illegible] erat talia delicta externo judicio [illegible] [illegible], notat Manelius de [illegible] in [illegible] 46. n.º 1. [illegible] publicam et solemnem [illegible] criminosos valde humiliarabant, merito poenitentia humillima dici solebat [illegible] cap. quamvis 62, [illegible] disp. cap. quamvis 22. cap. in tantum 33. de poenitentia disp. 3. [illegible] post alios [illegible] [illegible] cap. [illegible] 26 [illegible] 6. n.º 3. [illegible]

n.º 4.

Hujusmodi poenitentiae publicae, et solemnis ritus [illegible] [illegible] [illegible] cap. [illegible] [illegible] in cap. in capite quadragesimae 64, [illegible] [illegible], ut [illegible] [illegible] poenitentes [illegible] coram [illegible] [illegible], [illegible], et [illegible] [illegible] nudis pedibus, [illegible] [illegible], et [illegible] [illegible] in cap. poenitentes 63. [illegible] [illegible] illis [illegible] [illegible] [illegible] Concilio [illegible] cap. 12. cap. [illegible] [illegible] [illegible] poenitentes adhuc [illegible] et [illegible] psalmos poenitentiales [illegible] [illegible], et [illegible] poenitentibus imponebat aquam benedictam spargens [illegible] [illegible] Adam de [illegible] fuit de paradyso, sic illi de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] poenitentes [illegible] [illegible] [illegible] [illegible] [illegible] de poenitentia [illegible] 17. [illegible] disp. 3. [illegible] cap. [illegible] 10. [illegible] 12 cap. [illegible] 43. 26 [illegible] [illegible] [illegible] [illegible] 8. 26 [illegible] 6. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 18 [illegible] 1.º [illegible] [illegible] [illegible] 10 [illegible] [illegible] [illegible] 24. [illegible] [illegible] 46 [illegible].

Finis

[Left margin notes: largely illegible; include "n.º 4.", "Solemnis poenitentia", "Ritus poenitentiae publicae et solemnis"]

Locus pœnitentium [illegible].

Ingressum in ecclesiam [illegible]

[illegible]

§ 6. [illegible] Fine moverunt [illegible]

[illegible] aliis cum energumenis [illegible] [illegible] c. 16. alii inter [illegible] [illegible] Quadragesimum cap. 13. alii [illegible] [illegible] [illegible] lectis [illegible] [illegible] Litteris [illegible] [illegible], cap. Sacerdotes 1. 1. cap. sicut [illegible] [illegible] docent [illegible] cap. sacerdotes 4. Alcedo [illegible] Orientali cap. 36 [illegible] Bellarmin. [illegible] cap. 20. et [illegible] [illegible] erat [illegible] in conspectu [illegible] [illegible], nec [illegible] [illegible] cap. [illegible] de pœ-nit. dist. 1. cap. [illegible] de pœnitentiis et remissionibus [illegible] ad [illegible] doctrina [illegible] docet olim quinque fuisse pœnitentium loca [illegible] [illegible] [illegible] dicit [illegible] extra portas [illegible] Constitutum, intra portas et gradatim ad altare accedentia, itaut quinti [illegible] [illegible] expleverant, [illegible] tempus [illegible], [illegible] [illegible] [illegible] Ceremoniis [illegible] feria quinta [illegible] Domini [illegible] [illegible]

Explicatur [illegible] cap. ult. [illegible]

§ 7. Ex quibus venit interpretandus [illegible] Concilium Carthaginense [illegible] [illegible] cap. 32, [illegible] cap. ult. 26 q. 6. ubi cum [illegible] de [illegible] [illegible] solemnis [illegible] [illegible], [illegible] reservata ut [illegible] [illegible] [illegible] [illegible] publicum, et [illegible] [illegible] [illegible] ante apsidam manus ei imponatur. [illegible] solemnis [illegible] [illegible] ante apsidem, [illegible] est [illegible] [illegible] [illegible] dam. = [illegible] [illegible] [illegible] [illegible] [illegible] apsidae, et licet [illegible] [illegible] ut [illegible] ex [illegible] [illegible] [illegible]. Chronologiae cap. 8. [illegible] in libello de [illegible] [illegible] et Antonius Augustinus ad [illegible] [illegible] cap. 35., [illegible] a [illegible] dicit, significare [illegible] [illegible] [illegible] arcum, et [illegible] [illegible] erat [illegible] tribus gradibus eminens, [illegible] tribus [illegible] altare [illegible] aulae basilicae, [illegible], [illegible] in medio erat [illegible] altare cancellis inclusum [illegible] [illegible], [illegible] [illegible] [illegible], nec [illegible] in quibus sacra vasa, et vestes [illegible], et sacri libri ad [illegible] [illegible] ut docet Cerda in adversariis sacris c. 24. [illegible] quatenus [illegible] cap. ult. [illegible] solemniter [illegible] reconciliandi [illegible] manus imponit ante [illegible], debet intelligi ante cancellos [illegible] altaris, [illegible] tribunal [illegible], [illegible] [illegible] est, ut ex [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]. =

chorus

[illegible]

Tempus solemnis pœnit. [illegible]

[illegible]

§ 7. Tempus [illegible] solemni pœnit. designatum fuit, [illegible] [illegible] ante Dominicam quadragesimae, cujus dies [illegible] [illegible] caput, et principium [illegible] habetur in Concilio [illegible] [illegible] [illegible] cap. 64. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] feriam quintam [illegible] [illegible], in qua [illegible] [illegible] pœnitentes [illegible] reconciliabantur nisi forte [illegible] [illegible] ægritudo, cap. de pœnitentibus 17. de [illegible] cap. [illegible] presbiter 12 et sequenti 26 q. 6. [illegible] cap. 64 [illegible] [illegible] per plures annos [illegible] [illegible] ut quandoque solebat, repetendum erat [illegible] ut docet [illegible] [illegible] [illegible] cap. [illegible] [illegible] et evidenter [illegible] ex l. 18. [illegible] 4 [illegible] [illegible] docet Belarminus [illegible] cap. 22, [illegible] [illegible] [illegible] inveniuntur plura alia [illegible] ad genus et [illegible] [illegible] solemniter [illegible]. =

Solemnis [illegible] [illegible]

§ 8. [illegible] [illegible] solemnis pœnit. et [illegible] reconciliatio tantum [illegible] [illegible], [illegible] presbitero, nisi [illegible] mandato [illegible] vel urgente [illegible] cap. [illegible] [illegible] [illegible] [illegible] 16 q. [illegible], nec [illegible] in [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 4 [illegible], cap. Aurelius 5. [illegible] 26 q. 6. = [illegible]

Vae [illegible] jurisdictionis, cum ordinis [illegible], quidem cum si presenter vel ordines nullo [illegible] alterius [illegible] [illegible] praecesserit, ut inter alios eleganter animadvertit [illegible] Lopez in [illegible] libro [illegible] cap. quamvis [illegible] solemnem unusquisque tantum semel in vita admittebatur cap. quamvis 62 50 [illegible] cap. quamvis [illegible] 33. de [illegible] d. 3. et repeti non poterat, ne tam utilis medicina contemptibilis redderetur; et quia [illegible] eiusdem confessio in redeundi iterum ad publica scandala, quemadmodum in baptismo [illegible] professio non redeundi ad infidelitatem [illegible] 2. de [illegible] d. 3. docent [illegible] Ambrosius lib. 2. de poenitentia cap. 10. D. Thomas in 4. d. 4. [illegible] art. 5. et D. Augustinus [illegible] cap. quamvis et denique [illegible] ut [illegible] dicimus talis poenitentia significat [illegible] [illegible] desperatio [illegible] semel tantum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n. 9 D. quando [illegible] duplex [illegible] difficultas. [illegible]

Quae in re [illegible] [illegible] — ad dicimus D. poenitentiam solemnem reiterandi esse, et est [illegible] nodum. [illegible] qui caracterem non recipiunt cum sua solemnitate iterantur, ut [illegible] matrimonium et extremam unctionem, [illegible] imprimunt caracterem ut [illegible] igitur cum sua solemnitate [illegible] reiterari. = [illegible] dicendo reiterari poenitentiam solemnem [illegible] [illegible] caracterem [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] ut solemnitas [illegible] reiteretur, licet [illegible] [illegible] [illegible] ut [illegible] Turrecremata in [illegible] cap. [illegible] aliter 50 d. n. 6. [illegible] [illegible] = [illegible] [illegible] in cap. poenitentes 83. 50 d. in illis verbis manus impositis [illegible] [illegible] [illegible] a sacerdote [illegible] [illegible] [illegible] [illegible] poenitentiae solemnis [illegible] [illegible] [illegible]. = Facile [illegible] [illegible] dissolvitur si dicamus [illegible] illud [illegible] a sacerdote [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] solemnis poenitentiae impositio expectabat ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible].=

Quibus personis solemnis poenitentia poterat imponi — n. 10 Item ex hoc [illegible] solemnis poenitentia omnibus [illegible] fidelibus [illegible] quam feminis excepta in illis personis [illegible] in cap. de [illegible], 3. [illegible] cap. [illegible] 83. 50 d., clericis [illegible] imponi [illegible] poterat, sive presbiteri, sive diaconi, vel cuiusque alterius ordinis esset, quod [illegible] ordinis clericalis [illegible] [illegible] [illegible] in cap. [illegible] 65. cap. illud 66. [illegible] 67. 50 d., et ut qui publice et solemniter poenitentiam egerint ad clerum admittantur, nisi [illegible] necessitas, aut [illegible] exegerit, et [illegible] inter ostiarios deputentur et inter lectores, dum tamen evangelia, [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] in cap. placuit 83. 50 d. et tradunt D. Thomas [illegible] q. 28. art. 3. ad 4. [illegible] [illegible] cap. 23. Belarminus lib. 1. de poenitentia cap. [illegible] [illegible] lib. 1. observat. [illegible] [illegible] cum multis sequentibus Maiolus lib. 5 de irregularitate [illegible] et [illegible] [illegible] de [illegible] [illegible] [illegible] 42. sect. 2. n. 3. et 4. ubi interpretantur [illegible] cap. placuit 50 d. = Similiter haec poenitentia imponi non poterat coniugatis absque mutuo utriusque [illegible], quoniam [illegible] poenitentibus interdicebatur usus [illegible] coniugale licet illa [illegible] [illegible] admitterentur, cap. [illegible] 15. 33. [illegible] 2. [illegible] [illegible] [illegible]. Vel a [illegible] Leone in cap. audivimus 15. 32. q. 2. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] coniugale. =

Religionem ingredientia — n. 11 Verum [illegible] [illegible] [illegible] [illegible] [illegible] in cap. [illegible] [illegible] d. 6. cap. [illegible] cap. [illegible] sacerdotes 50 d. cap. sacerdotes 2. de poenitentia d. 6. cap. [illegible] de poenitentiis, et remissionibus ex quibus [illegible] [illegible] presbiteris et [illegible] [illegible] solemnis poenitentiae [illegible] [illegible] [illegible]. Facile haec difficultas dissolvitur si dicamus [illegible] [illegible] intelligenda de poenitentia publica non solemni, cuius [illegible] publica sacerdotibus olim imponebatur, et [illegible] hodie [illegible] imponi [illegible] [illegible] [illegible], cap. [illegible] 86. 50 d., docet Belarminus ubi [illegible] [illegible] [illegible] publice [illegible] [illegible] [illegible], [illegible] absque solemnitate fiat, velut si ex [illegible], [illegible] in monasterium detrudantur, vel alia similis [illegible] imponatur, cap. [illegible] 18. [illegible] 10 cap. [illegible] [illegible], cap. [illegible] [illegible] publice poenitentiae licet [illegible] solemniter Campegulo, [illegible] separatim in monasterium [illegible] [illegible] [illegible] cap. illud 66. 50 d. [illegible] [illegible] [illegible] [illegible] [illegible] sequitur [illegible] [illegible] n. 3. = [illegible] [illegible] [illegible] in cap. [illegible] 82 d. [illegible], [illegible] debet sacerdos publice poenitere, sicut laicus, [illegible] [illegible] [illegible] publice [illegible] debere [illegible]

[illegible]

— Signis

[illegible] ut notat [illegible] in [illegible] et [illegible] cap. [illegible] 7. de [illegible] [illegible] = Verum responderi pot. [illegible] accipi [illegible] depositio [illegible] solemnis [illegible] quia sacerdos depositus ex [illegible] ad laicos [illegible] reditur, [illegible] vere [illegible] qui sacerdos [illegible] [illegible] Greg. Lopez [illegible] [illegible] Belarm. [illegible] =

n. 42

Cleri [illegible] ex solemni [illegible] [illegible]. [illegible] [illegible] tes ordinari [illegible], quia licet [illegible] [illegible] fuerant [illegible] cap. [illegible] 50 d. cap. [illegible] cap. [illegible] [illegible] 50 [illegible] [illegible] et memoria [illegible] peccatoris [illegible] peccatis [illegible] [illegible] [illegible] Canone ut [illegible] Belarmini [illegible] cap. [illegible] 3. [illegible] Suarez de [illegible] 42 [illegible] 3. [illegible] Clem. [illegible] [illegible] 50. in fine [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] Suarez Belarminus et [illegible] =

n. 43

Verum quatenus [illegible] laicos [illegible] [illegible] [illegible] tam [illegible] admittendos [illegible] ad Ordines [illegible] videtur Divi Greg. Authoritas [illegible] in cap. 18. [illegible] [illegible] [illegible] [illegible] quia [illegible] non [illegible] [illegible] videtur [illegible] quemadmodum ferrum de terra tollitur [illegible] ad usum reducitur etiam [illegible] aliquis [illegible] terrenis [illegible] [illegible] [illegible] [illegible] admitti [illegible] peccatis [illegible] debeat [illegible] [illegible] [illegible] ad [illegible] revocat, igitur [illegible] videtur [illegible] [illegible] solemnis [illegible] debet [illegible] [illegible] [illegible] ordines ascendat. = [illegible] difficultati facile occurritur, si animadvertamus [illegible] [illegible] solemniter ut [illegible] [illegible] habere [illegible] post [illegible] [illegible] desiderarant, [illegible] antea ordinati [illegible], [illegible] ad ordines [illegible] admitti [illegible] [illegible] una [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] fuerat [illegible] post [illegible] ad superiores ordines [illegible] ascendere; [illegible] ordines [illegible] [illegible] [illegible] facilius [illegible] [illegible] ministrare [illegible] aliquid novi [illegible], ut animadver[illegible] in cap. [illegible] 50. [illegible] Monasterii 50 [illegible] quam sequitur Turrecremata in [illegible] [illegible]

n. 44

[illegible] [illegible] solemnis erat ut [illegible] [illegible] [illegible] [illegible] cap. admonere 8. cap. [illegible] 15. 33 q. 2. [illegible] fuerunt [illegible] [illegible] cap. [illegible] 14. 33 [illegible] [illegible] fragilitatis et [illegible] facile [illegible] solemnis cap. poenitentes 61. 50 d. [illegible] majoribus si tales [illegible] qui [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] in [illegible] [illegible] 33 q. [illegible] docent [illegible] in summa lib. 12 cap. 2. [illegible] tract. [illegible] de [illegible] 14 n. 2. [illegible] lib. 7. de [illegible] cap. 14 n. 3. [illegible] uxoratus [illegible] [illegible] [illegible] [illegible] uxorem [illegible] poterat [illegible] 15. 33 q. 2. [illegible] Thomas Sanchez lib. 7. de matrim. [illegible] 16 ad [illegible] quo [illegible] imponitur [illegible] authoritate [illegible] [illegible] 33 q. 2. [illegible] [illegible] ad eos qui solemniter [illegible] cap. [illegible] 33. q. 2. [illegible] [illegible] Turrecremata n. 3. et [illegible] [illegible] [illegible] [illegible] [illegible]

Ibidem ordinari [illegible] 50 d.

[illegible]

16. 33 q. 2a.

Contractus [illegible] tenebat, adeoque [illegible] interdicti [illegible]

num. 15. [illegible] Toletanum [illegible] Celebratum [illegible]

[illegible] anno [illegible] 7[illegible] [illegible] erat [illegible] cap. [illegible] 33 [illegible] ubi Statuitur quando adolescens [illegible] maturus [illegible] poste [illegible] ut ad [illegible] quisque videat, [illegible]

[illegible] incurrat [illegible] tamen [illegible] [illegible] peccatum [illegible] erat [illegible]

aliter ad Continentiam [illegible] redeunt [illegible] ad [illegible]

[illegible] decreverit [illegible] [illegible] remanserit [illegible] [illegible]

[illegible] decretum [illegible] difficultates [illegible] ex hoc [illegible] [illegible]

[illegible] adolescens erat Coniugatus, ne [illegible] ad [illegible] videat, [illegible]

[illegible] professus [illegible] liber erat ad uxorem redire [illegible] 15.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] hoc [illegible] Concilio Toletano [illegible] =

num. 16. [illegible] adeo difficilis [illegible] ut [illegible]

adverterit. [illegible] asserunt [illegible] decimo [illegible] procedere in [illegible]

[illegible] Capitulis [illegible] [illegible]

[illegible] ad [illegible] Toletanum [illegible] cap. [illegible] Concilii [illegible]

[illegible] ex [illegible] ad Uxorem [illegible]

[illegible] = Verum [illegible]

[illegible] cap. [illegible] ex [illegible] ex [illegible]

[illegible] ex Solemnitate professionis [illegible] Canonici [illegible]

[illegible] = Nec magis placet [illegible] sermonem [illegible]

[illegible] Capitulo in adolescentia [illegible] videat [illegible]

de matrimonio [illegible] professus [illegible] receperat, [illegible]

[illegible] et [illegible]

[illegible] = Nec admittimus [illegible]

[illegible] cap. [illegible] adolescentia [illegible] aliquas [illegible]

[illegible] num. 10 et 11 [illegible] =

num. 17. [illegible]

[illegible] Votum acceperit, [illegible] admitte [illegible] habitum [illegible]

[illegible] debebant [illegible] professus [illegible] in [illegible] adolescentia [illegible]

[illegible] ne adulterium [illegible] ut [illegible]

ad [illegible] tempus [illegible]

[illegible] generalis [illegible]

mulier 6. [illegible] generalitate [illegible]

[illegible] matrimonii, [illegible] humana

[illegible] incommodum [illegible] cap. [illegible] 15. [illegible] = [illegible]

[illegible] cap. [illegible] erat, [illegible] aliter [illegible]

[illegible] erat [illegible]

[illegible] ad [illegible]

[illegible] Concilio [illegible] cap. [illegible] 10, 36. [illegible] ubi etiam

Leonis

[illegible] quamvis [illegible] Quod pertinebant [illegible]
ex [illegible] poenitentibus [illegible] et quandoque [illegible]
[illegible] Concilij [illegible]
[illegible] adultis [illegible]

n.° 18 [illegible] poenitentia publica solemnis [illegible]

[illegible] carceratos poenitentes deberent minime [illegible] Toletanum 4 can. 55. ubi [illegible]
revocentur aliqui [illegible] coram [illegible] Concilio [illegible]
[illegible] poenitentes [illegible] professi
[illegible] religionem specialiter [illegible]
accipiendus [illegible] Canonem 55. [illegible] in cap. [illegible]
[illegible] Concilium 4 [illegible] ad hanc doctrinam [illegible]
[illegible] religionis [illegible] Decreta
[illegible] declarant, [illegible]
ad Ordinem aliquem, [illegible] Regulari disciplina [illegible]
[illegible] monasterio, [illegible]
cap. de lapsis. 50 q. 6. cap. [illegible] 10 q. [illegible]
[illegible] carcerati, [illegible] ut docent [illegible]

n.° 19

Postremum praedicto [illegible] publicis [illegible] personalibus
aliud 34. [illegible] 65 de poenit. dist. 1. ex quibus decretis [illegible]
[illegible] Concilium [illegible] ut omnes [illegible] Canonum poenitentiae [illegible] ad fori Ecclesiastici
[illegible] pertineat, docent [illegible] Hostiensis in summa tit. [illegible]
[illegible] Speculator tit. de competentis judicis addit. § 1. vers. 17. Cobb. tit. 2 Var.
n.° 3. [illegible] cap. 34 n.° 4. ubi [illegible] nihil interesse utrum [illegible] vel rei [illegible]
poenitentes [illegible] sive [illegible] Civilis, vel Criminalis ad hoc [illegible]
[illegible] = [illegible] poenit. publica solemnis hodie [illegible], licet apud [illegible]
vestigia durent, ut late et erudite post alios docet Cobb. tit. 2. Var. cap. 10 [illegible]
[illegible] tanquam [illegible] =

n.° 20

[illegible] de poenit. publica solemni, nunc de publica
solemni videamus, quae publica dicitur, quoniam publice pro peccato publico [illegible]
[illegible] mendicando cum [illegible] et aliis similibus [illegible], [illegible]
fuit ad [illegible] Catholicis [illegible] ut pro peccatis publicis publica sit emendatio cap. 5
17. [illegible] publice coram omnibus arguere, ut [illegible] timorem habeant cap. [illegible]
2 q. 4. cap. [illegible] 47 [illegible] cap. [illegible] publica [illegible]
ta ad publicam poenit. expectant, occulta [illegible], et [illegible] licet peccatis occultis [illegible]
aut pro [illegible] publicam poenitentiam imponere [illegible] 43 cap. 22, et [illegible]
[illegible] fuit pro peccato publico imponere poenitentiam publicam, nec [illegible]
[illegible] peccaverint 19 [illegible] provenit [illegible] peccata publica graviora [illegible]
secreta [illegible] peccandi exemplum exhibetur ad [illegible] cap. [illegible]
11. [illegible] de poenit. dist. 1. [illegible] cap. [illegible] et remissionibus
[illegible] publicis poenit. exempla extant in cap. [illegible] 11. q. 3. in cap. 2.° de maledicis, et aliis
[illegible] testimoniis et pluribus [illegible] refertur a Baronio anno
[illegible], et 390, [illegible] in [illegible] Trid. [illegible] de reformat. cap. 8. = +

n.° 21

Hinc descendit [illegible] poenit. publicae quae hodie [illegible]
Fidei Inquisitoribus [illegible] vel Sarracenis [illegible] et detestatis [illegible]
[illegible] quidem saccus ad modum [illegible] ante et retro [illegible] de panno [illegible] et aspero, [illegible]
[illegible]

Margin notes:

[illegible]

[illegible]

[illegible] publica [illegible]

+ vel, in carcere, vel [illegible] reclusa, aut disciplinae [illegible]

+ [illegible] Cobb. de cap. 10 n.° 3. [illegible]

De poenit. publica [illegible] hodie [illegible] =

[illegible] per oratio[nem] tempori[s] [illegible] Albam [illegible], et [illegible] solemniter [illegible], et deterrere [illegible] a [illegible] itaut [illegible] domo [illegible] portare, ut [illegible] et mi[sere]ri [illegible] ad similitudinem Cruci[s] quam [illegible] in [illegible] portavit. quod quidem [illegible] pariter in nra Hyspania [illegible] qua a [illegible] ad similitudinem [illegible] necessar[ium] [illegible] de poenit. [illegible] [illegible] infra 108 n. 3. [illegible] Coll. pract. [illegible] c. 5. et alij plures [illegible] [illegible] Collect. ad [illegible] cap. [illegible] de [illegible] Coll. 103. n. 5. [illegible] Collect. ad [illegible] Coll. 34 [illegible] et [illegible] Collect. ad [illegible] cap. [illegible] n. 22. cum sequentibus. =

n. 22

[illegible] inter solemnem poenit[entiam] et publicam [illegible] [illegible] [illegible] cum Cremoniis [illegible] [illegible] [illegible] [illegible] [illegible] 2. quod solemnis [illegible] pro gravioribus Criminibus [illegible] [illegible] cap. placuit [illegible] [illegible] publica [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = 3. quod [illegible] [illegible] presbiteri, nisi ex mandato [illegible] [illegible] [illegible] publicam [illegible] presbiteri dummodo poenitentiam [illegible] cap. [illegible] 50 [illegible] [illegible] [illegible] [illegible] externam illam [illegible] [illegible] [illegible] reformat. cap. [illegible] tract. [illegible] de poenitent. et remissionibus [illegible] n. 33. [illegible] = 4. quod ad solemnem [illegible] quisque in vita admitti [illegible] cap. [illegible] cap. quamvis [illegible] et 23. de poenit. [illegible] 3. ad publicam [illegible] pro delinquendi frequen[tia] [illegible] 5. quod solemnis [illegible] Sacerdotibus [illegible] dicimus [illegible] publica [illegible] Sacerdotibus [illegible] [illegible], et [illegible] cap. [illegible] 7. de poenitentijs et remissionibus cap. 20 [illegible] [illegible] cap. [illegible] 26. = 6. et ult. quod solemnis poenit[entia] [illegible] poterat [illegible] absque [illegible] ut [illegible] [illegible] interdice[re] [illegible] [illegible] [illegible] operat[ione] [illegible] poterat, ut [illegible] [illegible] et [illegible] [illegible], et tradunt Suarez, Salcedo, et Belarminus [illegible]. =

n. 23

Verum adverto hic [illegible] sequens Contradictio [illegible] inter solemnem poenit[entiam] et publicam [illegible], nulla [illegible] discrimen, si quidem [illegible] [illegible] Canonibus nomen poenit[entiae] solemnis [illegible], [illegible] [illegible] ad [illegible] cap. [illegible] 11, 95. [illegible] cap. [illegible] quadragesima. [illegible] cap. placuit [illegible] [illegible] [illegible] [illegible] differentia [illegible]. [illegible] difficultatem ut [illegible] [illegible] nomen solemnis poenit. a [illegible] [illegible], [illegible] Gratianum post [illegible] Capud [illegible] [illegible] de poenit. [illegible] [illegible] Magister [illegible] et alij [illegible]. [illegible] [illegible] [illegible] poenit. a publica [illegible] Canonibus, [illegible] quamvis solemnem [illegible] [illegible] [illegible] publicae poenitentiae [illegible] adiuncta Ceremonia [illegible] [illegible] Veluti tonsura, deposit[io] armorum, [illegible], publica reconciliat[io] [illegible] cap. [illegible] [illegible] placuit, notat Belarminus [illegible] cap. 22 [illegible]. [illegible] publica [illegible], [illegible] significatur [illegible] nulla [illegible] Ceremonij [illegible] [illegible] [illegible] remissionibus, et sic dissolvitur [illegible] difficultas ut [illegible] [illegible] [illegible] [illegible] 4. =

n. ult.

Denique [illegible] [illegible] ad [illegible] poenit. [illegible] [illegible] animadvertimus irregularitatem [illegible] incidebant solemniter poenitentes [illegible] [illegible] [illegible] [illegible] publicae poenitentiae, [illegible] [illegible] [illegible] irregularitatem [illegible] [illegible] [illegible]

Quid [illegible] [illegible] [illegible] [illegible].

Quid [illegible] [illegible].

[illegible]

[illegible] 1[?]

Deinde [illegible] docet Suarez de Pœnitentia disp. 21. sect. [illegible] publica [illegible] publica [illegible] manifesta [illegible] penitentia, et [illegible] aevum, et [illegible] prohibebantur, de quibus mentio extat [illegible] determinatus [illegible] Suarez de Pœnitentia disp. 41. [illegible] Maiolus de [illegible] Saccerdotibus [illegible] Aquila [illegible] de Pœnitentia q. 7 disp. 4. [illegible] 6.

= Cum [illegible] de hoc 3° art. =

Articulus 2us de necessitate Sacramenti [illegible]

= [illegible] essentia consistit [illegible] non [illegible] =

= 3. 8; cap. neminem 43. Cap. multiplex =

= 49 Cum aliis de pœnitentia =

= Conclusio 1a. =

Pœnitentiae sacramentum de necessitate [illegible] / p. 1.

Nostra pœnitentia sacramentum de necessitate salutis esse nullus dubitat, probatur quae aperte ex decreto [illegible] in pot. 38. cap. neminem 43. cap. multiplex 49. de pœnitentia dist. 1a, et stat ex sacra pagina [illegible] 13. versu 3. [illegible], si pœnitentiam non egeritis, omnes simul peribitis, et a [illegible] Tridentino decernitur [illegible] cap. 1° Cum quatuor sequentibus, ubi illa [illegible] refert, accipite spiritum sanctum, quorum remiseritis peccata, remittuntur eis, et quorum retinueritis, retenta sunt, [illegible] 6. docetur [illegible] iure divino esse necessarium ad salutem, quoniam necessarium [illegible] pœnitentiae, et ad peccata absolutionem a sacerdote obtinendam. Probatur quae [illegible] assertio ex [illegible] Patrum, ac Doctorum [illegible] quorum authoritates referunt Suarez de pœnitentia disp. 16. sect. 2a. n. 3. [illegible] pluribus sequentibus [illegible] summa [illegible] de pœnitentia cap. 3°. n. 2° atque [illegible] Certitudo tenendum est [illegible] Hereticorum erroribus, quos refert, et refellit Greg. de [illegible] to. 4. disp. 7. q. 1a. puncto 6. [illegible] =

n. 2.

necessarium esse absolute [illegible]

Verum hic pœnitentiae necessitas [illegible] absolute, [illegible] suppositione intelligitur, ut docet Angelicus Praeceptor D. Thomas [illegible] in [illegible]; quia [illegible] absolute necessaria [illegible] absque quo quis salute [illegible] potest, sicut [illegible], et sacramentum baptismi per quod homo [illegible] citur. Ex suppositione autem est necessarium sacramentum pœnitentiae [illegible], sed peccatoribus [illegible], ideo [illegible] cap. [illegible] cap. neminem, et in cap. quia [illegible] quoniam peccator de pœnitentia [illegible] [illegible] quam plurimis [illegible] de imponenda pœnitentia. Fit mentio [illegible] pœnitentiae medicina indigent cap. [illegible] de pœnitentia [illegible] quia [illegible] multiplex Dei misericordia ita lapsis [illegible], ut non solum per baptismi gratiam, sed etiam per pœnitentiae medicinam spes vitae reparetur aeternae, ut [illegible] Leo Pontifex [illegible] cap. multiplex 49. [illegible] ubi [illegible] de pœnitentia medicina intelligendum est respectu eorum qui in peccata mortalia fuere post baptismum, quia [illegible] baptismo regenerati [illegible] gratiam [illegible] Deum ut [illegible] in baptismo susceptam [illegible] fuit necessarium aliud sacramentum [illegible] ad peccatorum remissionem [illegible] Tridentino [illegible] 14. [illegible], et [illegible] de pœnitentia [illegible] =

n. 3.

[illegible] necessario investigandum, [illegible] sacramentum necessarium sit ad salutem necessitate medii, an necessitate praecepti; quod ut explicemus animadvertendum illud dici necessarium necessitate medii [illegible] [illegible] a Deo institutum ita necessarium est ut absque illo salutem quis [illegible] possit. Necessarium [illegible] necessitate praecepti illud est, quod licet non ita necessarium ut sine illo finis [illegible] nequeat, tamen [illegible] necessitate ad salutem [illegible] praecepti grave, quod neglecto [illegible] peccatis [illegible] certis [illegible] temporis, inter quas necessitates hoc [illegible] ad [illegible] respectu finis, [illegible] potest [illegible] respicit [illegible] loco [illegible]

[illegible]

Ex Regula

...ut docere post D. Thomam ... Valentia ... q. 3. art. 7. ... puncto 6. ... Suarez ... d. 9. ... culcare ... = quo supposito dicimus Sacramentum poenitentiae in re, vel in voto necessarium esse lapsis in mortali post baptismum necessitate medii ad justificationem, et consequenter ad gloriam docet Tridentinum sess. 6. c. 14. et sess. 14. cap. 2. ... ubi ... Sacramentum ita necessarium esse lapsis post baptismum, sicuti necessarium est baptismus his qui nondum ... illum ... Tridentinum ... cap. 2. ... Castropalao ... n. ... sacramentum necessarium ... necessitate medii in re, vel in voto ... Joannis cap. 3. ubi nisi quis renatus fuerit ex aqua ... igitur poenitentiae sacramentum necessarium est necessitate medii in re, vel in voto post baptismum ita tradunt ... cum Magistro in 4. d. 17. et D. Thoma ... art. ... Suarez ... disp. ... sect. ... Bellarminus ... quos refert et sequitur ... de Sacramento poenitentiae ... puncto 3. ... =

n. 4.

Hoc dicimus Sacramentum poenitentiae necessarium esse in re, vel in voto ... significat ut ... re, vel ... homo nonnisi ... ad ... Concilium ... Tridentinum ... cap. ... tam ... post baptismum ... expetto Confessarii ... tradit ... = Nec obstat dicere ... sufficit ... votum ... peccati ... Verum ... Tamen ... sacramentum poenitentiae dicitur necessarium in re vel in voto ... ut ... Contritionis ... sacramentum poenitentiae ... producit ... votum ... causat eundem effectum ... ad ... = ... peccati ... honesto ... gratiam justificantem ... ad ... peccandi ... Suarez ... disp. 17. sect. 3. n. 6. =

n. 5.

Aliis ... votum sacramenti poenitentiae necessarium ad justificationem debere esse explicitum, an vero sufficiat implicitum ... Doctores ... pro certo ... explicite ... sufficere ... implicite ... Tridentinum ... = ... explicite requiratur, nec ... nec ex ... nec ex ... nec ex traditione ... D. Thoma in 4. d. 17. q. 3. art. 5. ... = Nec obstat dicere ... explicite ... justificationem ... ad Claves ... ex Tridentino ... Sacramenti poenitentiae implicitum ... ter ... Cum voto Confitendi implicite ... remittendi peccata ... ad sacramentum poenitentiae ... cum obligatione postea confitendi ... et subjiciendi ... Clavibus ... ut ... remittendi peccatorum ... ad ... sacramentum ... habere ... ad tale ... Suarez ... sect. 3. n. 10. =

n. 6.

Nec magis obstat dicere Contritionem in nova Lege ... Conditiones, nec minoris virtutis quam esset in Veteri Lege, sed in Veteri justificabat independenter a Confessione, ... nunc ... justificat independenter ab ... et absque obligatione aperiendi peccata in Confessione, aut subjiciendi ... Clavibus ... quoniam ... Contritio in nova Lege justificet per ordinem ad Confessionem ... Veteri ... dendum minoris efficaciae, et virtuti, ... nova Lege ... Deus ... tribuit plura faciliora, et certiora remedia, quam Veteri Lege, nam in Veteri erat necessaria

Marginal notes:

Confessio Sacramenti poenitentiae ... explicatur.

Dissolvitur ...

extra Sacramentum.

An votum debeat esse explicitum an sufficiat implicitum.

... objectio dissolvitur.

... difficultas ...

71

contritio ad justificationem, et remissionem peccatorum, in voto saltem Sacramenti, sed etiam Sacramentum poenitentiae sola attritione remittit peccata quod est facilius et certius medium quam sola contritio, tradunt [illegible] et Suarez [illegible] in [illegible]. =

et est necessarium necessitate praecepti

n.º 7

Hinc animadvertimus poenitentiae Sacramentum non solum necessarium esse necessitate medii ad justificationem, sed etiam necessitate praecepti. quod probatur sequentibus fundamentis. 1.º namque quidquid est necessarium necessitate medii, est etiam necessarium necessitate praecepti, dummodo medium illud sit in nostra potestate. Cum aliquando media necessaria ad salutem, quorum omissio nobis non imputatur ad culpam quia in nostra potestate non est tale medium, quia exortamus, ex bona voluntate Dei, [illegible] ergo Sacramentum poenitentiae [illegible] necessarium ad salutem, et sit in nostra potestate, sequitur etiam esse necessarium necessitate praecepti, aliter non satis esset hominibus servare omnia praecepta divina, ut salutem et vitam aeternam consequerentur cujus contrarium constat ex D. Mathaei c.º 19 [illegible] ad vitam ingredi, serva mandata mea, nam illud est necessarium necessitate praecepti ex cujus culpabili omissione committitur peccatum, sed ex omissione poenitentiae certo tempore committitur peccatum, ut omnes Catholici Doctores testantur, ergo necessarium est necessitate praecepti = 2.º quia poenitentia [illegible] tanquam Baptismus ut diximus n.º 1, ad Baptismi necessitatem praecepti, [illegible] similiter poenitentia. = Denique [illegible] ex Trid. d.º sess. 14. cap. 8.º [illegible] et tradunt [illegible] 3.º de poenitentia Faigner [illegible] Valencia [illegible] et Suarez [illegible]. =

[illegible]

n.º 8

Haec necessitate Sacramenti poenitentiae diximus sufficiat, nunc in quibus essentia consistat exponamus, in qua inveniuntur Doctores opiniones, Scotus in 4.º d. 4. q. [illegible] asserit totam essentiam Sacramenti poenitentiae consistere in absolutione a peccatis a Sacerdote facta, ac proinde contritionem, confessionem, et satisfactionem non esse partes hujus Sacramenti, et tantum necessarias contritionem, et confessionem tanquam praevium ad absolutionem, satisfactionem tanquam quid consequens quod restat aliqua poena ut eam consumat. = Durandus in 4.º d. 14 q. 3. existimavit substantiam hujus Sacramenti consistere in absolutione et confessione, contritionem, et satisfactionem pertinere ad essentiam illius. [illegible] [illegible] utrumque nulla adducit fundamenta illis [illegible] aliis omissis communis sententia est Sacramentum poenitentiae constare ex actibus poenitentis, et Sacerdotis absolventis, ut docet D. Thomas 3.ª p. q. 84. art. 1.º in corpore ad 1 2 et 3, ubi inter alia animadvertit in hoc Sacramento quasdam esse partes essentiales, quasdam materiales, et integrales, itaut essentiales sint materia, et forma hujus Sacramenti, qualenus actus poenitentis, et absolutio Sacerdotis, integrales vero sint contritio, confessio, et satisfactio, explicant Angelici praeceptoris doctrinam amplectentes Turrianus de poenitentia [illegible] c. [illegible] indubitanter de Sacramentis et. 29 c.º 4. Vivaldus in Candelabro Aureo [illegible] de poenitentia. §. 4. n.º 6. =

Probatur auctoritate

n.º 9

In cujus rei confirmationem facit Concilium Florentinum [illegible] decreto de unione Armenorum circa 4 Sacramentum ubi [illegible] docet in poenitentiae Sacramento formam esse verba Sacerdotis, actus vero poenitentis, qui inveniuntur distinguuntur partes, contritio, confessio, et satisfactio esse quasi materiam. idem expresse definit Concilium Tridentinum sess. 14. c. 3. et can. 4. ubi postquam Sacerdos dixit vim Sacramenti poenitentiae praecipue consistere in forma, subjungit ad integritatem [illegible] consentientes actus poenitentis, quos dicit esse tres partes poenitentiae et quasi materiam illius, requiri = Sacramentum [illegible] perfecta poenitentia 40. de poenitentia d. 1.ª [illegible] in cap. poenitentia 8. de poenitentia d. 3.ª ubi [illegible] Chrysostomus [illegible] Author docet ad perfectam et fructiferam poenitentiam desiderari contritionem, confessionem, et satisfactionem operis, unde [illegible] [illegible] in [illegible] quantumlibet [illegible] quod quidem intelligendum de illis tribus actibus quatenus ii sub forma absolutionis in qua praecipue est Sacramentum efficaciam [illegible], ut docet Vasquez d.ª q. 84. art. 1. dub. 2.º n.º 7. =

Probatur ratione

n.º 10

Praedicta resolutio sequentibus habetur ratione, quia Sacramentum poenitentiae [illegible] instar judicii ex Trid. sess. 14. c. 6. circa quamvis, et can. 9. judicium autem constat ex explicatione judicis, et ex satisfactione pro delicto ut constat ex cap. [illegible] 10. de [illegible] [illegible] hactenus, et quia in hoc judicio Sacramenti poenitentiae sententia judicis est absolutio remissiva delicti, in quo explicatio delicti est satisfactio [illegible], nisi quae fit a poenitente delicta detestante, [illegible]

Colente, ideo quod hoc Sacr. constet contritione, confessione, et satisfactione, quae actus poenitentis sunt, et absolutione sacerdotis, [illegible]
tanquam ex partibus materialibus, ex absolutione sacerdotis tanquam ex parte formali
[illegible] descendit [illegible] Cur in aliis superioribus [illegible] actus poenitentis dicantur quasi materia huius Sacr.
et absolutio Sacerdotis dicatur forma absolute sine illa dictione quasi; cuius rationem reddit [illegible] Constat ex
item Mela 11. §. Celsus ff. ad legem Aquiliam [illegible] 28. [illegible] obligationibus [illegible]
[illegible], [illegible] dictio quasi multoties denotat [illegible]
Joannis c. 1. ibi gloriam quasi unigeniti a Patre, ubi [illegible] vocatur quasi unigenitus
[illegible] vere et propriae unigenitus, probat [illegible] particularis [illegible] ubi [illegible] quasi [illegible] dederunt, [illegible]
[illegible] populi [illegible] ff. de [illegible] [illegible] ff. de [illegible] [illegible] Barb. in [illegible]
[illegible] dict. 311, n. 3. atque ideo [illegible] auctoritatibus illi tres actus poenitentis dicuntur quasi
materia quamvis sint propria materia ut docet Enriquez in Summa lib. 10. de poenit. c. [illegible] [illegible] =

n. 11

Si quis aliquid hoc displicuerit, poterit dicere, ideo huius modi actus
[illegible] appellari quasi materiam, quia vere materiae rationem habent, sed quia aliis generis materia [illegible] sit extrinseca, seu quae extrinsecus adhibeatur, ut aqua in baptismo, panis in [illegible] Chrisma in [illegible] [illegible]
ut proponitur in Catechismo [illegible] 2. p. [illegible] de poenit. [illegible] et tradit [illegible] Bellarminus, et alii
quos laudant, et sequuntur Enriquez et [illegible] [illegible] = Alia [illegible] Valencia
[illegible] 4. art. 1. dubio 2. n. 8., [illegible] cum materia propria et primo dicatur [illegible] aliquam
[illegible] materia, [illegible] in aliis Sacramentis [illegible]
exterior materia locum obtineat, ut in baptismo aqua, in [illegible] panis, et sic similiter in aliis, in Sacramento autem
poenitentiae pro materia assignetur operatio poenitentis, quae [illegible] substantia, sed accidens est, ideo [illegible]
[illegible] quod [illegible] dicatur materia simpliciter, et absolute, sed quasi materia, absolutio vero quamvis sit accidens
dicatur forma absolute, sicut formae aliorum Sacramentorum, et [illegible] dicatur quasi forma, nam [illegible] forma
[illegible] non solum convenit substantiis, sed etiam accidentibus, ut animadverterunt Hurtado, et Suarez [illegible]

n. 12

Nec quidquam obstat considerare quod Sacr. [illegible] signum gratiae, ut [illegible]
[illegible], sed solus actus sacerdotis gratiam hic confert per potestatem [illegible] Clavium, [illegible] actus poenitentis
igitur in sola absolutione consistit Sacr. poenitentiae, quia [illegible] et [illegible] poenitentis ut [illegible] potestati Clavium, producunt instrumentaliter gratiam, ut docet Divus Thomas [illegible] q. 86. art. ult. quamvis
verum sit in absolutione Sacerdotis praecipue positam esse vim et efficaciam Sacramenti ut cavetur in Trid.
[illegible] 14 c. 3 ubi cum doceat efficaciam remittendi peccata praecipue esse in absolutione [illegible], atque
supponit esse etiam in aliis partibus quibus Sacr. poenitentiae consistit. [illegible] praecipue esse in absolutione nam
in illa reperitur tanquam in forma modificante, et perficiente contritionem, confessionem, [illegible] poenitentis, et
ob id dicitur in Sacerdote esse potestas Clavium et remissionis peccatorum. [illegible] Vecanus
de Sacr. [illegible] c. 4. Enriquez [illegible] [illegible] Suarez [illegible] et alii plures quos refert
et sequitur Barbosa in remissionibus ad Concilium Trid. [illegible] 14. c. 3. n. 5. cum sequentibus =

n. 13

Nec magis urget dicere quod Contritio, seu dolor interior non est sen-
sibilis, atque ideo nequit constituere Sacr. poenitentiae quod est sensibile [illegible] quod proponimus cum [illegible]
ubi [illegible] n. 8. quoniam Respondetur contritionem seu dolorem interiorem licet absolute [illegible]
non sit sensibilis, fieri [illegible] sensibilem [illegible] confessionis quatenus in illa tanquam per acci-
[illegible] quandam peccatorum manifestatur contritio in ordine ad absolutionem, quod satis est ut simul
cum aliis actibus poenitentis possit constituere substantiam huius Sacramenti, docet eleganter [illegible]
[illegible] adducens post Caietanum, Ricardum et alios Scriptores Gregorius de Valencia [illegible] de
poenitentia [illegible] puncto [illegible] ubi sequens vestigia Durandi affirmat hoc Sacr. [illegible]
potius esse appellandum Sacr. confessionis quam aliter, sicut Romanus [illegible] Lucius [illegible] appellant in
[illegible] ad abolendam [illegible] confessionem peccatorum [illegible], unde [illegible] adducit [illegible]
[illegible] Scriptores antiquos illustrat. =

n.º ult.

Denique obstare videtur quoniam sit verum, nam talis qui poenitentiam distulit in posterius, sequitur ipsius salvatio, et supponit iam esse in eadem affectu illius, nempe remittit quoad culpam, et poenam aeternam, atque ideo sine satisfactione videtur huius sacramenti existere ut patet in eo qui tamen attritus confessus, et absolutus fuerit, postea in [illegible] [illegible] [illegible]. Ad hoc sequelam negando; nam licet ad veritatem huius sacramenti non sit sine satisfactione, et consequenter minime inferetur eam nullo modo pertinere ad substantiam [illegible] ita pertinere ad eius substantiam tanquam quod sit eius pars [illegible], et essentialis nihilominus substantiae pars integralis sicuti supra diximus ut manus [illegible] pars integralis substantiae hominis, et sine ea potest homo sine manu existere, Notat [illegible] Vazquez dicto dubio 5.º n.º 12. Coninck de sacramentis disp. 4. dubio 7. et alii [illegible] quos refert et sequitur Bonacina loco citato.

= Et haec de hoc articulo. =

Articulus Quintus de Materia Sacramenti

= Poenitentiae. Card. de Lugo disp. 8 [illegible] et alii =

= Quintum de poenitentia disp. 12. =

[margin: Materia [illegible] ... [illegible]]

Materia huius sacramenti duplex est, alia remota, alia proxima. Materia remota sunt ipsa peccata de quibus fit poenitentia, ut docet Apostolus 2.ª ad Corinthios cap. 12. ibi [illegible] fuerunt poenitentiam super [illegible], et [illegible] videtur ex cap. porro 31. cap. sed continuo 46. cap. Serpens 47. cap. [illegible] 48. cap. multiplex 49 [illegible], et [illegible] 3. cum pluribus aliis de poenitentia dist. 1.ª cap. [illegible] 22. cum quibusdam sequentibus de poenitentia dist. 3.ª [illegible] art. [illegible] itaque de poenitentia dist. 6. [illegible] inter [illegible] 1.º [illegible] multories de privilegiis inter communes. Proxima vero materia actus poenitentis ut statuitur in concilio Florentino in decreto ultimo de unione Armenorum et [illegible] 14. [illegible] fere per totam, et ita tradunt D. Thomas 3.ª p. q. 84. art. 2. ubi Vazquez et [illegible] tores Valencia t. 4. disp. 7. q. 2 puncto 2.º Suarez de poenitentia disp. 18. [illegible] per totam Vivaldus in Candelabro aureo de poenitentia §.º 1.º de materia [illegible] ubi [illegible] 4. cap. Ochagavia tractatu 1.º de poenitentia q. 3.ª Bonacina, et alii plures [illegible] quos refert et [illegible] Leander de poenitentia tract. 5. disp. q. 3.ª [illegible] in quibus [illegible] animadvertunt dictis de materia remota intelligi debere tantum peccata [illegible] [illegible] ex qua [illegible] quam distrahendam, et absolvendam [illegible] actus poenitentis, quippe in sacramento poenitentiae, quod fuit institutum per modum iudicii [illegible] [illegible] debet materia remota esse materia iudicii ~~[illegible]~~ ut evenit in [illegible] [illegible] et statuitur in cap. [illegible] § 6 cum [illegible] de poenitentia [illegible]. =

n.º 2.

[margin: [illegible] peccata poenitentis [illegible] [illegible] =]

Verum cum nec peccata [illegible], sit quod aliud originale aliud actuale, idque vel mortale, vel veniale et ante et post baptismum [illegible] de quibus [illegible] Navarrus in Manuali [illegible] 7.º 8. et 9. D. Gregorius in [illegible] [illegible] 10. [illegible] Toletus in summa ~~[illegible]~~ [illegible] cap. [illegible] cum sequentibus Thomas Sanchez [illegible] moral. [illegible] [illegible] investigare oportet an omnia indistincte peccata poenitentis et quocumque tempore commissa sint materia sacramenti. Qua in re licet scriptores valde divertiant, certo certius [illegible] omnia peccata actualia [illegible] baptismum [illegible] esse materiam remotam sacramenti poenitentiae ut stat ex Trid. [illegible] 14. [illegible] 2 et 5. et docet D. Thomas [illegible] q. 84. art. 2. [illegible] Antoninus [illegible] de poenitentia cap. 2.º, in quibus in solis mortalia, [illegible] [illegible] [illegible], quia [illegible] poenitentiae [illegible] in illorum peccatorum remedium [illegible] propria [illegible] [illegible] principaliter ad delenda mortalia, vel venialia peccata [illegible] [illegible] [illegible] [illegible] propria, et [illegible] sacramenti poenitentiae [illegible] [illegible] [illegible] mortalia peccata in solum [illegible] [illegible] et sufficiens materia, verum [illegible] Catholici fatentur,

Sunt necc.ª ad ministrandum sacram. unitis, de quibus necc. est confitendi, quamdiu est per hujusmodi sacrum iure, vel in voto remitti valeant, itaque ubi venialia, quae aliis multis modis remitti, et condonari possunt, nulla obligatio confitendi illa, quamvis si confiteantur, possit penitens apponere conf. seu contritio, et sacramentum dicitur materia libera et sufficiens hujus sacr. ut post alios docet [illegible] de poenit. [illegible] puncto [illegible] et aliis pluribus quos refert, et sequitur [illegible] [illegible] =

[illegible] venialia necc. [illegible] necc. hujus sacram. nam [illegible] ibi [illegible] [illegible] [illegible] intelligenda quae tollit amicitiam Dei [illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] ex [illegible] 1° de [illegible] Item [illegible]
[illegible] 27 [illegible] confirmatur ex [illegible]
[illegible] [illegible] non [illegible], nisi peccata illi [illegible]
[illegible] [illegible] [illegible] nouo [illegible]
[illegible] [illegible] Cum insuerentia [illegible] Cum [illegible]
[illegible] peccata [illegible] repetere [illegible] Voluerit [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

n° 7°

Deinde infertur peccatum originale nec [illegible] nec necessariam, nec sufficientem, [illegible] originale [illegible] non est peccatum [illegible] ac omissis [illegible] peccatis [illegible] ultra [illegible] [illegible] [illegible] maiorem 3. § [illegible] [illegible] institutus ad detergenda, atque [illegible] [illegible] [illegible] [illegible] [illegible] ante baptismum [illegible] [illegible] [illegible] art. 2° ad 3., ubi [illegible] [illegible] cap. 9. § 1° et 2° Cum sequentibus. =

n° 8°

Quia resolutio adeo vera est ut Originale peccatum nullo modo sacramento poenitentiae, id est non sol[um] [illegible] ut a nobis [illegible] sicut iam ostendimus, [illegible] [illegible] est impedimentum gloriae, [illegible] [illegible] debemus, [illegible] [illegible] habere [illegible] impedimentum gloriae [illegible] illud [illegible] cap. 33. ibi [illegible] me homo, et vivet. [illegible] = [illegible] hoc [illegible] habeat, [illegible] Originale possit esse [illegible] virtutis poenitentiae; virtus poenitentiae habet maiorem obiecti [illegible], [illegible] [illegible] illi virtuti [illegible] ubicumque inueniatur, [illegible] retractationem [illegible] respectu ad [illegible] peccati, sed peracti odii, [illegible] docent [illegible] 2. cap. 1° n° [illegible] Hurtado [illegible] difficultate [illegible] ubi plures allios refert. =

n° 9

Manet [illegible] peccatis omissis ante baptismum, nec sufficientem [illegible] necessarium huius sacramenti poenitentiae [illegible], [illegible] [illegible] hoc sacramentum instituit pro reconciliandis fidelibus qui post baptismum in peccata [illegible] [illegible] [illegible] cap. [illegible] [illegible] ante baptismum omissa per baptismum dimittuntur, [illegible] [illegible] sacramenti poenitentiae [illegible], [illegible] ante baptismum omissa non [illegible] [illegible], et [illegible] [illegible] sunt [illegible] illud Apostoli [illegible] ad Chorinthios cap. 5° [illegible] quid mihi de his qui foris [illegible], tradunt [illegible] cap. 9. § 2. Valentia et alii relati [illegible] Bonacina [illegible] 1° n° 4. et [illegible] de presbitero non baptizato ubi docent [illegible] [illegible] [illegible], et [illegible] prosequuntur. =

n° 10

Difficilis redditur haec doctrina ex [illegible] Matthaei cap. 3° [illegible] agite, appropinquat enim regnum [illegible], et actorum cap. 3° [illegible] [illegible] [illegible] [illegible] homo [illegible] [illegible] [illegible] nulli [illegible] [illegible] ex quibus authoritatibus [illegible] videtur [illegible] necesse ut remittantur [illegible] baptismum omissa, [illegible] [illegible] [illegible] resolutionem [illegible] [illegible] non de sacramento [illegible] sed [illegible] ut adulti baptizandi habeant ad suscipiendum baptismum [illegible], docent Navarrus [illegible] n° 26. et 27. [illegible] [illegible] cap. 2°. [illegible]
[illegible] cap. 2° n° 20. =

[illegible] possit [illegible] in [illegible] fictione [illegible]
sit mali sacram[enti] [illegible] peccati [illegible] aliud ad [illegible] de
de vita [illegible] doloris et attritionis aut [illegible] baptismi [illegible] illa [illegible]
[illegible] cap. [illegible] modo [illegible] de consecratione [illegible] cap. [illegible]
ar[ticul]o 7. et [illegible] modo [illegible] mali nec sacram[enti] [illegible] vera [illegible]
[illegible] Medina [illegible] tract. 2. [illegible] Enriquez [illegible]
[illegible] Quintilla [illegible] non [illegible]
[illegible] non [illegible] Victoria [illegible] cap. [illegible]
[illegible] ut [illegible]
[illegible] docet [illegible] Becanus [illegible]
n.° 12

[illegible]
[illegible] remittuntur [illegible] baptismi
[illegible]
[illegible] Sylvester [illegible]
[illegible] Silvera [illegible] tract. [illegible]

n.° 13

[illegible] authoritatibus [illegible] ubi [illegible]
[illegible] de consecratione dist. 4. [illegible] D. Ambrosius [illegible]
[illegible] parato illa adultos [illegible] a nobis desideramus [illegible]
[illegible] aut [illegible] videtur. Atque difficultas [illegible] dissolui [illegible] dicamus [illegible]
[illegible] cap. [illegible] locutum fuisse de parvulis in quibus nulla est necessaria [illegible]
[illegible] libero arbitrio [illegible] in cap. [illegible] 96. de consecratione dist. 4. [illegible] quidam [illegible]
[illegible] arbiter cum accedit ad sacramenta fidelis nisi [illegible] veterem vitam, novam [illegible]
inchoare. Ab hac [illegible] parvuli [illegible] nondum [illegible] libero arbitrio [illegible]
[illegible] Divum Ambrosium [illegible] D. Aug. [illegible]
Cardinalis [illegible] n.° [illegible] ubi [illegible] intellectum [illegible] difficultas [illegible]
[illegible] eodem [illegible]

n.° 14

[illegible] dictis [illegible] demum [illegible] sacri [illegible] videtur [illegible]
[illegible] quidam [illegible] ubi [illegible] vera [illegible] quia [illegible]
[illegible] accedit [illegible] peccati [illegible] dicens [illegible] posse [illegible]
[illegible] poenitentis [illegible] salutaribus [illegible]
[illegible] quod poenitens dolorem habuit et de peccatis [illegible]
simpliciter consideratam [illegible] sacram[en]ti [illegible] difficultas [illegible]
dissoluant [illegible] cap. 5.° [illegible] poenitentes admittendos ad salutare [illegible] quondam [illegible]
accessisse [illegible] pro [illegible] humanae fragili-
tatis experimentis [illegible] peccaturos [illegible] de peccatis [illegible]
[illegible] in peccata, [illegible] admittendi [illegible]
[illegible] requiritur [illegible] credat se nunquam peccaturum [illegible] de peccatis [illegible]
firmo de caetero [illegible] peccandi [illegible] de [illegible]
[illegible] vere de peccatis [illegible] admittendus [illegible]. =

2.° [illegible]

[illegible] quae [illegible] omissis [illegible]
[illegible] accedunt ad sacerdotem dicentes [illegible] posse abstinere a peccatis [illegible] respondeat [illegible]
admittendum [illegible] ad humilitatem [illegible] ut [illegible]

[illegible]

[illegible]

propositio [illegible]

[illegible] satis [illegible] intelligitur [illegible] Gratianus in cap. [illegible] D[ivus] Ambrosius [illegible]

altera propositio [illegible]

assignatur [illegible] solutio

1[illegible]

[illegible] in [illegible], atque [illegible], cum ibi [illegible] ad [illegible] [illegible] peccatorum [illegible] ad [illegible] cap. [illegible] 135. [illegible]

[illegible] 4. cap. [illegible] 6. [illegible] in hoc [illegible] Vera [illegible] dispositio, [illegible] dolens [illegible] cap. [illegible] 10, [illegible] docet eleganter [illegible] [illegible] 4. n.° 10, [illegible] peccatum [illegible] [illegible] Malderus docet [illegible] [illegible] Cardinalis [illegible]

n.° 16.

Sunt et aliae arg.ta cum [illegible] doctrinam [illegible] videntur, [illegible] sunt peccata mortalia, quae dicuntur [illegible] remota [illegible] Sacra[mento] p[oe]n[ite]ntiae, qualia peccata [illegible] spiritum sanctum [illegible] illud [illegible] Matthaei cap. 12 et [illegible] Marci cap. 3. ibi: quicumque dixerit [illegible] filium hominis, remittetur ei, qui autem dixerit [illegible] Spiritum Sanctum non remittetur ei, nec in hoc saeculo, neque in futuro, et Proverbiorum [illegible] tunc invocabunt me, et non exaudiam, mane consurgent et non invenient me, eo quod exosam habuerint disciplinam, et timorem Domini non susceperint, et Jeremiae cap. [illegible] 12. ibi: [illegible] ieiunaverint non exaudiam preces eorum, et si obtulerint holocausta, et victimas [illegible] consumam eos gladio, fame, et peste, [illegible] et [illegible] 17 [illegible] clamaverunt, nec [illegible] salvos faceret ad Dominum, nec exaudivit eos, et [illegible] Ioannis cap. 5. [illegible] est peccatum ad mortem, non pro illo dico ut roget quis, et ex Machabaeorum cap. [illegible] ibi orabat scelestus Dominum a quo non esset misericordiam consecuturus, ex quibus auctoritatibus [illegible] deducitur [illegible] peccata [illegible] p[oe]n[ite]ntiam non remittantur, [illegible] remittere [illegible]

n.° 17

Ut ab his difficultatibus liberemur, sciendum est quod [illegible] dictum Spiritum Sanctum, quatenus est [illegible] Deum, et [illegible] cum [illegible] Spiritui Sancto [illegible] [illegible] [illegible] peccatum in Spiritum [illegible] quatenus [illegible] peccati [illegible] ab aliis [illegible] [illegible] 86. [illegible] usque ad [illegible], [illegible] dicimus [illegible] peccata [illegible] Spiritum Sanctum [illegible] irremissibilia [illegible] remittantur, sed quia [illegible] difficulter [illegible] peccator convertitur ad veram [illegible], cum difficultas [illegible] semper [illegible] gravitate, [illegible] bonitati, cum [illegible] gratiam quibus homo ad p[oe]n[ite]ntiam [illegible] debuerat [illegible] Spiritum Sanctum [illegible] [illegible] [illegible] Spiritum Sanctum peccant, [illegible] [illegible] quibus p[oe]nitens ad p[oe]n[ite]ntiam posset [illegible] [illegible] quis peccavit [illegible] [illegible] in delinquente [illegible] [illegible] [illegible] cap. [illegible] in [illegible] quibus tradunt antiquiores, [illegible] [illegible] cap. [illegible] n.° 10 [illegible] [illegible] Marci, et Matthaei intelliguntur [illegible] de impossibilitate [illegible] sit impossibile [illegible] Clemens, ut [illegible] Cardinalis Lugo in tractatu de [illegible] disp. [illegible] 8. [illegible] n.° 1.

n.° 18

[illegible] cap. [illegible] ad [illegible] 17. vers. 45. [illegible] de peccatoribus [illegible] [illegible] in inferno nulla [illegible] accipiebant [illegible] peccata [illegible] quo [illegible] intelligi [illegible] Paulus ad [illegible] cap. [illegible] [illegible] p[oe]n[ite]ntiae, quae [illegible] Deinde non obstat [illegible] Ioannis [illegible] intelligi [illegible] peccatis [illegible] quibus licet [illegible]

[illegible] audet [illegible] ut [illegible] [illegible] [illegible] [illegible] oret [illegible] alijs, oportet enim [illegible] deprecatur, ut [illegible] [illegible] [illegible] [illegible]. [illegible] nullus est peccatum

1. [illegible] Veram [illegible] Valeat cap. Firmiter [illegible] de Summa Trinitate et fide Catholica cap. ad abolendam [illegible] de [illegible] cap. [illegible] [illegible] [illegible] cap. [illegible] [illegible] alijs determinationibus [illegible] [illegible] Trid. sess. 6. cap. 14. et 24. docet [illegible] S. Thomas 3a p. q. 86. art. 1. et in 4o. d. 16. [illegible] in 4o d. 5. q. 2. art. 1o. Cum [illegible] Belarminus [illegible] de [illegible] gratia, et libero arbitrio cap. 5. et lib. 2. de penit. cap. 5. =

Dico

Alterum de facto nullum [illegible] peccatum [illegible] [illegible] penitentia [illegible] remitti, [illegible] de potentia absoluta [illegible] decreto quod [illegible] vult remittere peccata hominum [illegible] [illegible]. [illegible] docent [illegible] [illegible] [illegible] [illegible], qui [illegible] [illegible] [illegible] [illegible] [illegible] peccat. al Venialium [illegible] facere [illegible] mortale, quando [illegible] Veniale, [illegible] Veniale ut [illegible] eleganter docet [illegible] S. Thomas 1a 2ae q. 88. art. 2o. = Nec [illegible] [illegible] [illegible] [illegible] Auth. [illegible] [illegible] [illegible] dist. 1a. quatenus asserere [illegible] [illegible] peccat. mortale ex Venialibus [illegible] quoniam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] doctrinas, [illegible] enim Veniale peccatum [illegible] [illegible] [illegible] ex [illegible] peccat. Venialibus [illegible] [illegible] ut [illegible] mortalem [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] =

[illegible]

Manet [illegible] ex utrisque dictis [illegible] [illegible] partes [illegible] [illegible] [illegible] [illegible] et integrales, essentiales [illegible] materia et forma, integrales [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] facto, dicuntur essentiales [illegible] [illegible] [illegible] deficit; [illegible] integrales [illegible] [illegible] [illegible] ex illis [illegible] [illegible], et reintegratur [illegible] [illegible] de penit. 40. de penit. d. 1a. [illegible] [illegible] peccat. Corde, ore, et opere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] adlibus [illegible] [illegible] debet ut [illegible] [illegible] Florentino et Trid. [illegible] [illegible] et tradunt [illegible] S. Thomas [illegible] arte [illegible] [illegible] in 4o. dist. 17. art. 1o. et alij plures quos referunt et sequuntur [illegible] = et Belarminus ubi [illegible] de [illegible] singulis agamus, et [illegible] de [illegible] =

Articulus 6us de Forma Sacramenti penitentiae

= Sive de absolutione [illegible] in cap. [illegible] =

= 49. de penit. [illegible] [illegible] de penit. [illegible] =

= [illegible] alij Trid. sess. 14. c. 3o. =

Dico 1o

Utrum [illegible] Sacramenti [illegible] materia et forma certa, [illegible] de materia [illegible] [illegible], [illegible] de forma [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] Valde controversum est. [illegible] Vazquez, et [illegible] et alij plures quos refert et sequitur Hurtado de penit. disp. 3. [illegible] 4. [illegible] essentialiter formam absolutionis [illegible] [illegible], Ego te absolvo a peccatis tuis, moventur [illegible] [illegible] 4. in doctrina de Sacramentis [illegible] [illegible] Sacris, ubi forma [illegible] Sacrament. [illegible] Ego te absolvo a peccatis tuis, et ex Trid. sess. 14. cap. 3o. [illegible] docet [illegible] [illegible] [illegible] Sacram. [illegible] in qua [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] positam [illegible] Ego te absolvo a peccatis tuis. = Alij [illegible] [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] absolvo te [illegible] sufficere ad [illegible] [illegible] [illegible], quoniam in illis reliquae voces tacite intelliguntur, [illegible] [illegible] Ego in [illegible] absolvo, [illegible] [illegible] in [illegible] baptismo, et Vox a peccatis in illis [illegible] [illegible], nam peccata [illegible] [illegible] Vincula quibus animus tenentur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] fuerunt plures quos refert et sequitur [illegible] de Sacris [illegible] de penit. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] absolvere [illegible] =

Dico 2o

Utraque sententia [illegible] [illegible] [illegible] [illegible], ut diceremus [illegible] absolute [illegible] [illegible] [illegible] forma [illegible] Sacrament. [illegible] [illegible] [illegible] [illegible] [illegible] Sacram. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Ego, [illegible] peccatis

peccatis tuis [illegible] pertinent etiam ad essentiam formae, et donec illa prolata sit [illegible] sacramentum, nec tamen necesse ut explicite dicantur. Et patet etiam quia [illegible] quae exprimuntur [illegible] ex verbis essentialiter in [illegible] significantur necessario, itaut non possint non contineri, [illegible] redundent eundem sensum, ad eundem effectum conducunt, pertinent que ad essentialem formam, [illegible] ter contingit verba quae adducuntur [illegible] ex vi significationis essentialis [illegible] tenentur enim etiam si adsint non pertinent ad essentiam formae nec conferunt [illegible] Cum illud non omnem [illegible] illo absolvo, atque etiam illa dictio a peccatis tuis [illegible] [illegible], non quidem ex vi [illegible] significationis essentialis [illegible], [illegible] modificatur [illegible] [illegible] absolute qui [illegible], teneatur [illegible] peccatorum [illegible] [illegible] verba si explicite proferantur [illegible] significant aliquid de novo, nec ad essentiam formae [illegible] [illegible] prolata. Cum de [illegible] intentione [illegible] 7. pro [illegible] formam essentialem [illegible] effectus sacramenti, quin [illegible] illis non prolatis suspenditur. =

n.º 3.

Quid in genere ad formam.

[illegible] [illegible] quae addi [illegible] solent, nempe nomine Patris et Filii, et Spiritus Sancti, ut [illegible]. [illegible] notat [illegible] [illegible] quia [illegible] [illegible] intentio in suspendit effectum, neque [illegible] suspendere dummodo habeat [illegible] ad [illegible] intentionem suam suspendendi [illegible], [illegible] [illegible] aliquid effectum donec addat posteriora praedicta quae non pertinent ad essentiam [illegible] nihil [illegible] efficit [illegible] debita intentione quae necessaria ad effectum sacramenti [illegible]. pro certo statuimus [illegible] sacramenti formam necessario et essentialiter in verbis [illegible] [illegible] tradunt divus Thomas 3 p. q. 84. art. [illegible] in Summa [illegible] absolutio [illegible] Navarrus in manuali c. 26. [illegible] in [illegible] [illegible] [illegible] [illegible] t. 2. [illegible] c. 3. [illegible] et alii plures quorum [illegible] sequitur [illegible]. =

n.º 4.

1.ª difficultas [illegible].

Dominum [illegible].

Verum [illegible] [illegible] [illegible] difficultates. quarum 1.ª [illegible] [illegible] [illegible] debet esse [illegible] capite [illegible] 4. de [illegible], et [illegible] Deum 2. q. 1. ex exemplum [illegible] [illegible] [illegible] forma [illegible] fuit [illegible] sacramenti ille [illegible], dimittuntur tibi peccata multa [illegible], et [illegible] vade in pace, et noli amplius peccare, ut ex divi Mathei [illegible] cap. [illegible] [illegible] sacerdos [illegible] [illegible], hac forma, [illegible] [illegible] [illegible] debet. = haec difficultas ut dissolvamus [illegible] [illegible] Deus [illegible] [illegible] hanc [illegible] sacramenti formam, nec [illegible], [illegible] modus quo absolute fieri debet, [illegible] [illegible] accipite Spiritum Sanctum quorum remiseritis peccata, remittuntur eis, et quorum [illegible] retenta sunt [illegible] divi Mathei cap. [illegible] et [illegible] [illegible] [illegible], ut [illegible] [illegible] forma [illegible] [illegible] Catholica decrevit [illegible] ut [illegible] [illegible] [illegible] [illegible] [illegible] debet. [illegible] quia illa [illegible] [illegible] [illegible] erat [illegible] remittebat peccata [illegible] excelentiae habuit et habet quod [illegible] faciendi, ut [illegible] in Magdalena et aliis [illegible] et [illegible] divus Thomas 3 p. q. [illegible] art. 3. [illegible] [illegible] 4. [illegible] 4. [illegible]

n.º 5.

2.ª [illegible].

[illegible] difficultas ex [illegible] quia solus Deus potest remittere [illegible] [illegible] [illegible] ego solus deleo iniquitates tuas, [illegible] solus Deus dominus noster remittere peccata [illegible], et sacerdos nullius potestatis [illegible] valeat [illegible] Deus [illegible] [illegible] sacerdos quidem [illegible] exhibet, et nullius potestatis iura exercet, [illegible] [illegible] necessario. = [illegible] difficultatem dissolvendam animadvertimus in sacramentis duplicem reperiri potestatem, alliam principalem, alliam instrumentalem, et ministerialem. potestas principalis [illegible] Deus qui solus est sacramentorum institutor, et operator [illegible] [illegible] [illegible], et excelentiae [illegible] quam potestatem intelligendus est [illegible] locus. ministerialis [illegible] instrumentalis potestatem quae [illegible] sacerdotem tanquam ad [illegible] [illegible] pertinet, [illegible] sacerdos in hoc sacramento [illegible]

ministerialiter, et instrumentaliter operatur tanquam iudex pronuncians [illegible] divina virtute et Clementina adstante, quae doctrina intelligitur [illegible] in cap. [illegible] Dei, nam cum [illegible] Ambrosius ibi attenderet [illegible] Dei dimittere peccata, et sacerdotem iudicem esse, licet forte dicat sacerdos nullius potestatis iura exercere, debet intelligi tanquam principalis [illegible] soli Deo competit, sacerdos vero ut ministerialis, vel instrumentalis, quia [illegible] habet [illegible] Christo dominum, ut explanant sacrae paginae [illegible]. [illegible] Aug. [illegible] in cap. [illegible] 82. [illegible] quando [illegible] in dimittere [illegible] peccata, [illegible] Spiritu Sancto adstante, [illegible] accipite spiritum sanctum, [illegible] remiseritis peccata [illegible] [illegible] 8o.=

n.º 6

[illegible] forma necessario [illegible] sacerdotibus [illegible], nec [illegible], aut [illegible], aut aliis [illegible] probatur [illegible] Florentino [illegible] sacerdos [illegible] generaliter dicens [illegible] tanquam [illegible] in sacris [illegible] [illegible] requiritur [illegible] quae sufficienter sacramenti [illegible] probatur [illegible] formam [illegible] in illis [illegible] ministri [illegible] [illegible] ex Volunte [illegible] quae [illegible] sacerdotalia [illegible] 1. [illegible] 3. Hurtado [illegible] 6. [illegible] ad 27 [illegible] n.º 2. = Nec [illegible] obstat dicere quod hodie sacerdos [illegible] fieret, quia [illegible] in [illegible] idem [illegible] actor [illegible] [illegible] quae [illegible] Filliucius [illegible] 6 de [illegible] 6. [illegible] 62.=

n.º 7

[illegible] forma [illegible] sacramenti [illegible] proferri ut dicens in termino indicativo, non [illegible] deprecativo, ut [illegible] ex Florentino et Trid. [illegible] formae modo indicativo, [illegible] tanquam [illegible] modo deprecativo, [illegible] indicativo, [illegible] forma [illegible] extremae unctionis [illegible] deprecativo [illegible] sacerdos [illegible] ut iudex, [illegible] docet [illegible] 3.º ad 2. [illegible] Valquez, Hurtado, [illegible] in cap. [illegible] 6. [illegible] 3. = Nec [illegible] obstat [illegible] in cap. [illegible] supplicationibus sacerdotum Dei indulgentia [illegible] ibi [illegible] sacerdos, [illegible] supplicatio [illegible] modo deprecativo, [illegible] habet [illegible] divina maiestas [illegible] ministri operatur remissio peccatorum, ut [illegible] Hurtado, Suarez, [illegible] Vasquez [illegible].=

n.º 8

[illegible] Sacramentalis absolutio absenti [illegible], nec valide absolvi potest [illegible] in articulo mortis, vel alio casu necessitatis. [illegible] ad personam praesentem, ut patet ex particula te, quae est personalis [illegible] ad oculum, et quia [illegible] sacerdos [illegible] ut verificetur requirit [illegible] absolvendi et confirmatum [illegible] auctoritate ex Decreto Clementis [illegible] sanctissimus, [illegible] [illegible] peccata sacramentaliter [illegible] absolutionem [illegible] et falsam temerariam, et scandalosam, [illegible] ipso facto incurrendo [illegible] [illegible] publice, aut privatim, aut defendat, aut in praxi [illegible] [illegible] aperte apparet [illegible] Clemente [illegible] nullo modo probabilem esse, [illegible]

las in nulli admeserint eis baptismi, quod ita est tradunt Caietanus in summa Verbo Confessio, 2
c. 4. de 18. q. 2. art. 6. Valentia disp. 7. q. 11. Vasquez dub. 2. q. 9. 7. Vasquez disp. 91 [illegible]
dubio 2. Suarez, Egidius, et Hurtado ubi supra, Layman l. 5. tr. 6. c. 9. Toletus in Summa lib. 3. cap.
[illegible] n. 4. quamvis aliqui contra referunt. =

n. 9

4. Infertur absolutionem in voce factam sub conditione de praesenti validam
infallibiliter esse, quia si sacerdos dicat Ego te absolvo si hoc feceris, vel si restitueris, aut
[illegible] debitam formam absolutionis profert ut illam invalidam, et inanem faciat, quod est
[illegible] quam fieri quando absolutio est adiuncta conditio, in pot[estate] ministri non quod ex sacra
[illegible], effectus maneant sacramentaliter suspensi usque ad perfectum intentionis [illegible]
in talibus conditionibus de futuro, quibus aut statim quod finiuntur debent habere rationem sacra
aut nunquam habebunt, [illegible] aliter ferunt non habent sacramentis [illegible] defectu[s] purae [illegible]
intentionis, necessariae tunc conveniunt conditio [illegible] defectu formae et materiae, sine quibus in [illegible]
[illegible] sacris, docent Filliucius, Vivaldus, et [illegible] ubi 1. Caramuel lib. 4. disp. [illegible] cap.
5. [illegible]. Ex quo descendit [illegible] quod inter hanc [illegible] sacramentalis poenitentialis [illegible]
[illegible] iudicij exceptionis, quod in hoc casu quamvis a delicto absolvat sub conditione [illegible] feceris [illegible]
[illegible] quod nobis [illegible], qui absolvit [illegible] voluntatem externam expressam quam [illegible]
[illegible] absolutionis in [illegible] intentioni absolvendi sacramentaliter adhuc vocal[iter]
expresso [illegible] prolationi verborum tanquam formae, atque idem hic [illegible] simul [illegible] esse
[illegible] nomine ministri de [illegible] ratione sacramenti, aut nunquam [illegible]
[illegible] ut dixi. =

n. 15.

5. [illegible] conditione vel de praesenti, vel de praeterito [illegible]
valet si [illegible] hoc, ego te absolvo, vel si vivis, ego te absolvo [illegible] absolutionem [illegible]
nullam, aut irritam, quamvis sacerdos illicite, et male faciat illas apponendo, quia conditio
de praesenti, vel de praeterito [illegible] conditiones, nec suspendunt intentionem [illegible], nec [illegible]
tum valet si conditio subsistat, aut statim non valet si non subsistat [illegible] 37. [illegible]
[illegible] Credilis, faceret tamen illicite, et peccaret mortaliter sacerdos adiiciendo illas conditiones [illegible]
rationabili, ut [illegible] animadvertit Fagundez [illegible] c. 9. n. 12. Quando vero adsit rationabilis ca
[illegible], licite apponuntur, velut si confessarius dubitet an poenitens [illegible] absolutionis possit licite
valide absolvere sub conditione, sive vocaliter expressa, sive mentaliter concepta, si [illegible] absolvo
te absolvo; et si dubitet an [illegible] confessus sit [illegible] potest ita absol[vere]
Ego te absolvo si [illegible], aut [illegible] absolutionis; et si dubitet an [illegible] poenitens [illegible]
potest absolvere sub hac conditione [illegible], si peccasti, ego te absolvo, quamvis [illegible]
hoc [illegible] quare ut poenitens aliquid ante actu [illegible], ut docent [illegible]
et [illegible] qui etiam animadvertunt absolutionem [illegible] ratihabitionis [illegible]
dicatur te absolvo si tuus consensus, quod [illegible] Fagundez [illegible]
Toletus in summa lib. 3. cap. 12. n. 3. [illegible]. =

n. 11

Hinc investigandum venit difficilis quaestio an [illegible] cum poenite
[illegible] absolutionem petiit aut [illegible] signa exhibuit coram testibus in absentia [illegible]
[illegible], qui postea accedens invenit illum ita sensibus destitutum ut nec verbis, nec nutibus signum doloris
[illegible] valeat, hoc censeatur sufficere ut minister moribundum valide absolvere possit. [illegible]
Licet variae existant opiniones, existimamus valide, et licite posse a confessario [illegible] morib[undum]
absolvi, dummodo [illegible] verificetur illum petiisse absolutionem. [illegible]
[illegible] 7. [illegible] c. [illegible] qui [illegible] eius [illegible]
multiplex [illegible] 49 [illegible] quibus [illegible] Rituale Romanum Pauli 5. editum anno 161[4]
[illegible], quia talis moribundus ex [illegible] coram testibus petens absolutionem a sacerdote,
[illegible] sacerdoti [illegible], et [illegible] absolutionem, [illegible] voluntatis
[illegible] certa peccatorum [illegible] fundata in voluntate quam [illegible]

Vo[illegible]

Vocando, et postulando Confessarius, quo proferret verba absolutionis paenitente praesente, vere dicatur uti praecisè sacrâ formâ, docent Henriquez lib. 1. de paenit. cap. 9. n. 2., Barbosa lib. 4. de matrim. cap. 25. n. 8. Leander de Sacram. t. 2. tr. 5. de paenit. q. 44. et alii plures quos refert, et sequitur Diana ... lib. 4. ... resolut. 23. et 3. p. tr. 3. resolut. ... Praeposit. [illegible]

n. 21.

Quot testes debeant afferre petitionem absolutionis.

Dubitum tamen, quot testes hoc casu requirantur, ut absolutio valide fieri possit, et duo testes requiruntur probari videtur ex cap. cum quis necessarium 7. 26. q. 6. ... testimonium, et ... cap. cum vero testimonium ... cap. ... lex 49. de paenit. dist. 1. quia ... plurali numero utuntur, quare ... sunt duo ... admitti intervenire testes, ... in qua pluralis locutio ... numero est contenta. = Verum his non obstantibus verius et probabilius videtur ... unicum testem sufficere, quippe unico testi multoties fides adhibetur, veluti ... ad ... vitando, vel deprobanda paenitentiali Confessione, maxime quando non resultat alterius praeiudicium arg. ... in ... Responsis de dote praelegata ... quos adducit Farinacius in tractatu de testibus q. 62. n. 37. Cum Sayrus, quod multo potius ad probanda signa paenitentiae ... unicus testis debet sufficere, nec necesse erit roborare deposit. iurato, ... vertitur ... exigant, siquidem credibile non est aliud in ... casu deponi, ut animadvertit Diana ... tractatu 13. resolut. 11. ... et 3. p. tractatu 3. resolut. 5. ubi addit hoc in casu saltem sub ... sacris absolutionis ministrandis esse, veluti si ... testes signa paenitentiae ostenderunt, absolvo te a peccatis, confiteri poterit ... coram infirmo, ... testes ... manifestaverint illi petiisse confessionem, et procedi ... testes ... deposuerunt ... sed ab aliis ... audierunt ... Bonacina ... q. 3. punct. 33. n. 4. =

n. 23

Maior dubitatio est utrum Confessarius sub simili conditione possit absolvere moribundum sensibus destitutum, qui nec petiit confessionem nec ullum dedit contritionis signum. Signo ... negativam tenent Henriquez, Regnaldus, Vasquez, et alii plures, quos refert Diana ... tractatu 3. resolut. 8. et 4. p. tractatu 4. resolut. 92. moventurque ... ubi nulla est accusatio, ... proxima huius sacramenti, ac per consequens nec absolutio concedi moribundo. = Affirmativam tamen, nempe moribundum, qui more christiano, et cum bona fama probataque vita ... in extrema afflictione mortis ... absolvi posse saltem sub conditione expressa, vel tacita, si signa contritionis praestitit, aut si dispositus est, aut si capax est absolutionis, ego te absolvo, tenent Tortellius, Leander de paenit. tractatu 5. disp. 5. q. 40. Faber Joseph in summa lib. 1. de paenit. tractatu ... n. 11. ... Hoc fundamento nititur quia in dubio favere ... tenetur ... atque ... creditur ... ac bona fama sufficit saltem ad ... impertiendi absolutionem sub aliqua ex memoratis conditionibus, maxime cum nulla inde irrogetur iniuria Sacro, quod aut statim valet si dispositus est, aut statim non valet ... = Accedit ... utrum paenitens habeat ... necne ... sub conditione, ... impendi potest in ... casu. ... Caramuele ... rationis probabilis ... tenemus, et posse licite ... absolutionis.

n. 24

His ita explicitis antequam hunc articulum terminemus, necesse est ... qualis sit verus sensus ... formae absolutionis, ... quo assignando valde laborant DD. diversimode ... sententiae. Verum pluribus ... opinionibus recensitis et examinatis a ... ubi ... lib. 2. cap. 11. per totum, verus sensus ... est quem tradit D. Thomas 3. p. q. 84. art. 3. ad 5., dum dicit ... Ego te absolvo ... ego ... sacramentum absolutionis impendo, quasi diceret: Ego te sacramentaliter absolvo a peccatis tuis, ... absolutionem efficit ... sacramentalis ... virtute ex ... a ... peccata ... ex ... accidens ... remissa, vel ... accedit ...

ideo minus sufficienter disposit[us]; nam adhuc in his casibus verba formae ex sua veri[tate] [illegible] ministeri quantum in se est absolvunt a peccatis, ideo impendit sacramentum absolutionis sufficienter ad delenda peccata, sicuti [illegible] iudex remittens debitum, et forma absolutionem dicit vere, et proprie remittere, et liberare, quamvis debitor aut reus pro culpa velit [illegible] detinere explicant [illegible] Becanus [illegible] et alii quos refert [illegible] Bonacina [illegible] n. 8 et 9. =

n. 15

Hinc provenit sufficere ad valorem huius sacramenti [illegible] [illegible] absolvo, [illegible] quibus idem sensus [illegible], vel [illegible] peccata remitto, vel ego te munio a peccatis, quamvis sacerdos illa mutando [illegible] [illegible] [illegible] absolutionis [illegible] peccatum mortale sacrilegium ex genere suo, [illegible] Vasquez [illegible] dubio 3. n. 11. et dubio 4. n. 9. ubi [illegible] observat [illegible] [illegible], si aliquis absolvens [illegible] urbanitatis gratia diceret ego vos absolvo [illegible] [illegible] authoritatis [illegible] nos te absolvimus, nam ex accommodatione [illegible] idem [illegible] [illegible], tametsi peccaret mutando consueta verba, et [illegible] tradunt [illegible] [illegible] cas. 4. n. 6. et n. 15. Nav. [illegible] 1. de poenit. [illegible] n. 8. Caietanus in summa [illegible] n. 10. Vivaldus in candelabro aureo n. 90. de materia, et forma huius sacramenti n. 5 3.

n. 16

Denique pro [illegible] huius [illegible] investigare an [illegible] dumtaxat verbis [illegible] formae absolutionis, censeatur poenitens absolutus non solum [illegible], sed etiam ab excommunicatione censura [illegible] manebat [illegible] prius sacerdos a censuris absolvit distincte, et separatim ut ex [illegible] praecepto tenetur, propterea quod excommunicatus [illegible] non possit sacramenta recipere [illegible] celebrat [illegible] excommunicato interdicto [illegible] [illegible] [illegible] peccatorum [illegible] sic intelligendum [illegible] [illegible] quae adducit Nav. in cap. [illegible] n. 100. de poenit. [illegible] in qua [illegible] hac [illegible] te absolvo posse sacerdotes valide absolvere a peccatis, et simul a censuris, dummodo [illegible] intendat sacerdos [illegible] absolutus quam [illegible] possit concedere, nempe a censuris, et peccatis, quo casu [illegible] [illegible] absolutio, et prius censetur a censuris liberari, et postea a peccatis. [illegible] nam [illegible] [illegible] formae sacramentalis, et sufficienter indicatur [illegible] vinculi censurae, ut [illegible] docent Nav. in cap. 1. de poenit. [illegible] n. 100. Soto in 4. [illegible] art. 3. Enriquez [illegible] 4. c. [illegible] Gregorius, Bonacina [illegible] 4. de poenit. puncto 1. n. 10. Toletus [illegible] 3. cap. [illegible] =

n. 17

Verum si aliquis obiiciat dicendo quod una, et eadem absolutio [illegible] sacramentalis, et non sacramentalis, ut per se patet, sed absolutio a peccatis est sacramentalis, absolutio a censuris non sacramentalis, igitur haec absolutionis forma non potest adhiberi ad absolvendum [illegible] et a censuris simul, respondere poterit negando maiorem, quia [illegible] esse ut [illegible] absolvo fiat una absolutio sacramentalis, et alia alterius generis [illegible] ad diversos fines a sacerdote intentos, [illegible] non [illegible] ut idem verbum ad diversa [illegible] diversimode accipiatur, ut probant [illegible] ab excommunicat. [illegible] de rescriptis cap. Cum [illegible] [illegible] L. 1. ff. de off. pro consulis L. finali ubi [illegible] vel alieni iuris, [illegible] per unam [illegible] absolutus quis a peccatis, et a censuris [illegible]

n. 18

Difficultas [illegible] an excommunicatus si ad poenitentiae sacramentum accedat et [illegible] a peccatis petat absolvi, possit ab illis absolvi, valida que sit absolutio vinculo excommunicationis manente. in qua [illegible] dicimus quod [illegible] excommunicatus bona fide, id est nesciens, vel inadvertens excommunicationem [illegible] [illegible], vel invincibiliter ignorans principes absolvendi a censuris quam a peccatis, tunc absolutio a peccatis [illegible] obtinetur, et vere efficitur sacramentum, nam poenitens [illegible] culpa [illegible] [illegible] excommunicato ubi [illegible] excommunicatis celebrantem [illegible] ignorantia [illegible] [illegible] de essentia sacramenti [illegible] prius absolvatur ab excommunicatione quam a peccatis, [illegible] [illegible] [illegible] valide absolvi [illegible] Suarez et [illegible] Nav. in man. [illegible] Toletus [illegible] Diana 3. p. tract. 4. resolut. 78. [illegible] excommunicatus taliter absolutus [illegible] [illegible] [illegible] petere absolvi ab excommunicatione mala fide, aut [illegible] sacerdos [illegible] ad illum accederet [illegible] excommunicatus [illegible] absolutio [illegible] Nav. [illegible] ad fundamentum [illegible] [illegible]

= Articulus 7. de contritione seu dolore peccatorum =

= ad explicationem huius capituli Tridentini 84. cap. [illegible] =

= [illegible] definitio [illegible] 25. =

= 50 [illegible] =

[illegible — upper portion of text faded]

Verum de hanc definitionem displicentiae gravis difficultas [illegible] ex consequenti [illegible] habet absque conferre [illegible] vero [illegible] definit [illegible] cap. [illegible] 39. [illegible] 39. [illegible] quando eadem ad Sacramentum debeat referri. = [illegible] pro [illegible] illud Psalmi Cor mundum crea in me Deus, [illegible] Evangelii [illegible] potest venire ad me, nisi pater traxerit [illegible] definitione deserviat. = [illegible]

dicendo dolor [illegible] Sacrati [illegible] facit [illegible] Fidei [illegible] [illegible] similiter et [illegible] generatur [illegible] gratiam [illegible] vera [illegible] aliquis [illegible] doleat de peccatis [illegible] valet [illegible] Confessi, talis dolor gratiam [illegible] ferret, [illegible] regeneratur. = [illegible] animadvertendo [illegible] habere [illegible] formalis [illegible] Dei [illegible] impulsum, ita ut formaliter [illegible] a Deo, [illegible] pendeat a libero [illegible] arbitrio [illegible] ex Deo, [illegible] operatur [illegible] tam voluntarium [illegible] D. Thomas [illegible] Greg. [illegible] cap. 2. 5. [illegible] Sahagun de Sacr. [illegible] [illegible] utrumque [illegible] 15 de [illegible]. =

n. 29

Ut vero vera, et perfecta sit [illegible] contritio [illegible] nulla desideratur [illegible] detestatio peccati, [illegible] displicentia [illegible] nollet [illegible] peccatum [illegible] Dei offenso [illegible] detestationem semper sequitur dolor, [illegible] in peccatis [illegible] [illegible] Dominus Thomas [illegible] 85. art. 4. dubio [illegible] hoc peccatum detestandi [illegible] offensa Dei [illegible] [illegible] faciat inimicus, [illegible] Contritionis [illegible] detestandi Contritio [illegible] ita [illegible] D. Thomas [illegible] 4. dist. 17. q. 3. art. 2. [illegible] 4. [illegible] [illegible] peccandi de cetero, [illegible] desiderat vitae emendationem, oportet [illegible] mala plangere, sed plangenda iterum [illegible] cap. [illegible] 6. [illegible] definit [illegible] animadvertit post Ambrosium et Gregorium D. Thomas [illegible] 86. art. 2. = Denique [illegible] Contritio [illegible] Sacrati [illegible] [illegible] habeatur [illegible] Trid. [illegible] 14. cap. 4. [illegible] peccata [illegible] [illegible] proprio Sacerdoti, [illegible] [illegible]

n. 4. [illegible] Contritio [illegible] detestatio [illegible] Dei [illegible] dolorem [illegible]

[margin notes illegible]

[illegible] apreciative, [illegible] scripturis [illegible] Veram [illegible] apretiatis, aut dolorem de peccato [illegible] Contritione [illegible] Deus [illegible] vero amore [illegible] ex complacentia [illegible] de peccato [illegible] quecunque bona, aut mala [illegible] ad [illegible] charitati amoris amicitiae Dei [illegible] talis amoris [illegible] intelligendus [illegible] Deum [illegible] diliges [illegible] ex toto corde tuo, [illegible] [illegible] ut Contritionem [illegible] [illegible] [illegible] [illegible] dolere de peccato debet propterea [illegible] Dei [illegible] gradus [illegible], a [illegible] [illegible] filiali immediate [illegible] [illegible] docet [illegible]

n.º 5.

Praeterea [illegible] quamvis contritio [illegible] peccatis [illegible] [illegible] tamen requirunt [illegible] de singulis peccatis mortalibus [illegible] sed de omnibus peccatis generatim, et [illegible], [illegible] de uno peccato [illegible] in memoria revocato specifice, aut numerice, dummodo ex motivo generali [illegible]. Dicit [illegible] docent Navarrus in manuali c. [illegible] 12 n. 15. [illegible] in summa [illegible] 3. cap. 5. n. 2. = [illegible] revocandi in memoriam atque detestandi tempore debito omnia generatim [illegible] peccatorum [illegible] enumeranda illa numero certo, et vero simili, [illegible] in [illegible] facit [illegible] Aug. authoritas in [illegible] de [illegible] et falsa [illegible] cap. [illegible] 17. [illegible] de Confessione ait memoriam in [illegible] peccatorum sed [illegible] circumstantiarum [illegible] obstavit dicere quod [illegible] ad delenda peccata in sacramento [illegible] requiritur examen, atque confessio [illegible] peccatorum, [illegible] singulorum peccatorum contritio [illegible] [illegible] excepto [illegible], ut [illegible] de Confessione dicemus [illegible] fideles obligentur ad singulorum peccatorum [illegible] nullius [illegible], [illegible] sacris paginis authoritates [illegible] illis respondent Vasquez [illegible] [illegible]

n.º 6.

Hucusque dicta ad veram, [illegible] expedanda [illegible] imperfectam, videlicet attritio, quae juncta cum sacramento [illegible] virtute [illegible] ad justificationem, [illegible] et [illegible] illam informent, et [illegible] habere requisitam [illegible] imperfectio [illegible] obiecti, velut [illegible] peccati [illegible] non [illegible] offensa Dei est, sed [illegible] mali temporalis, atque [illegible], ut infamiae [illegible], [illegible] voluntas nullo modo [illegible] virtualiter tendit in Deum aut [illegible], quinimo [illegible] [illegible] imperfectio [illegible] modi, ut cum detestamur peccata ex [illegible] aut [illegible] temporalis, [illegible], velut famae, et salutem virtualiter ut offensa Dei, [illegible] mortalia vitare, [illegible] illa detestamur [illegible] debemus. = [illegible] detestamur peccata ut offensa Dei, [illegible] habemus propositum firmum formale vel virtuale vitandi cum divina gratia peccata [illegible] in futurum, [illegible] adhuc manet [illegible] [illegible] desiderat, vel [illegible] habere [illegible] peccata detestari, quamvis [illegible] habeat perfectas nec imperfecte. =

n.º 7

[illegible] ad sacramentum [illegible] digne, et [illegible] attritio [illegible] qualibet, [illegible] efficax sit, ut [illegible] docet [illegible] virtute sacramenti [illegible] justificari [illegible] attritio [illegible]

[illegible] ex [illegible] attritio [illegible]

itaque attritio [illegible] de peccatis [illegible] 24. c. 4. [illegible] considerari [illegible]

sufficit attritio [illegible]

Quatenus videlicet ... sufficere ... peccatoris ad impetrandam veniam peccatorum, quia ita intelligendus est, si sit necessarium ... extra Sacramentum justificetur ... ut justificetur in virtute Sacramenti, quam doctrinam ... Divus Thomas in 4º dist. ... art. 3 ... 3 p. q. 86 art. 6 ... quos refert et sequitur Valencia ... ; ... processu ... justificationis ... formale vel virtuale ... per actus dilectionis Dei, ... quod ... bonis ... sui ... et ... id est ... voluntas ... ut ... notat Fagundez ... cap. 6 n. 1 ...

n. 8 ... attritionis ... Sacramento ... malum ... et ... Voluntas ... peccatum ... naturalis ... ad actus supernaturalis attritionis ... malum ... et ... ex ... cum ... supernaturalis ... beatitudinis ... naturalis ... Collectio virtualiter ... dilectionis ... Voluntas ... in ... finis ... Voluntas ... finis ... ad finem ultimum ... nempe ad Deum authorem ... speramus. = Qua ... doctrina dissolvitur alia difficultas quam proponit ... peccati, et infamia ... supernaturalis ... ordinantur ad finem ultimum nempe ad Deum authorem luminis et gloriae, quibus ... ut hanc explicat et sequitur Fagundez ... cap. 4 n. 9 ... =

n. 9. ... attritionis ex ... relatis, quis nullo modo ... peccatum virtualiter ... Deum esse dumtaxat ... insufficientem ad Sacramentum ... et cum ... ut tradit Fagundez ... cap. 5 n. ... dicit ... attritionis ... peccatorum ... propositum formale vel virtuale vitandi peccata mortalia ... attritionis ... ad gratiam ... Sacramento ... = Maior ... dubitatio ... attritionis ... supernaturalis ... cum Sacramento ... ad gratiam ... accedit ad Sacramentum ... Vitoria ... n. 9 ... Fagundez ... affirmativa ... =

n. 10. ... Sacramenti ex defectu integritatis ... conformem ... essentialiter integram et sufficientem ad conferendam gratiam, velut ... peccata mortalia ignorantia vel negligentia culpabili, exempli gratia, si quis multis peccatis ... accurate ut oportuit ... et accedat ad confessionem cum oblivione mortalium, ... facere integrum Sacramentum, quamvis ... Sacramenti informe admittunt plurimi quos refert et sequitur Diana ... tract. 3 ... resolut. 31 ... tract. 4 de Sacramento ... 6 ... attritionis ... defectu ...

Dubia attritionis ... sufficiens ...

... attritionis ... proponit ...

Sacramenti informe ex defectu integritatis ... admittitur

de essentia huius sacramenti, ita Confessio integra, quando culpabiliter omittitur [illegible] sacramenti, quando inculpabiliter omittatur aliquod peccatum, [illegible] erit essentialiter sacri integri, conferet gratiam, [illegible] autem quod sit cum [illegible], vel in [illegible] voluntate culpabili, nam [illegible] sacri essentia, nec collatio gratiae, ita docent Suarez et Fagundez [illegible] Vasquez [illegible] 3 p. q. 92. art. 2 [illegible] cum sequentibus. =

n.º 11 — Sacri informe

Itaque quamvis [illegible] sacri [illegible] informe [illegible] in [illegible], [illegible] propterea illud penitus excludimus [illegible] cum D. Thomas illud admittat [illegible] q. 87. art. [illegible] [illegible] q. 9. art. 2. [illegible] informe sacri [illegible], cuius [illegible] quia potest dari dolor sufficiens ad [illegible] huius sacramenti, qui sufficiat ad hoc ut conferatur gratia [illegible] ut eleganter animadvertit Bonacina [illegible] disputatione 5 q. 2. puncto 3. n.º 12. [illegible] n.º 3. [illegible] cum gratia sit [illegible] sacramenti, [illegible] dari essentiam sacramenti [illegible] [illegible], [illegible] casus ubi [illegible] habeat locum, quod [illegible] in [illegible] poenitentis, velut cum quis habens plura peccata, unum furti, alterum homicidii, [illegible] aliud intemperantiae [illegible], et [illegible] doleat [illegible] ut hoc de primo doleat quia furtum, de 2.º quia homicidium [illegible], tunc [illegible] a Deo sub suo motivo particulari [illegible] valida, [illegible] doloris, vel externis, [illegible] cum sit motiva particularia [illegible] Suarez disputatione [illegible] n.º 7. Henriquez [illegible] q. 2. [illegible] et sequentibus. =

n.º 12 — [illegible] informe [illegible]

Similiter [illegible] confirmant dari [illegible] Confessionis validae informe, [illegible] fide [illegible] ablato, recedat effectus gratiae [illegible] ficta fictio tollatur, in quo dubio D. Thomas, Valentia, Suarez et alii docent [illegible] informe [illegible] gratiam recedente fictione, ad quod [illegible] [illegible] a baptismo qui [illegible] habet ex [illegible] Augustino in cap. [illegible] de Correctione [illegible] alii [illegible] fundant. = Soto in 4.º d. 16. q. 3. art. 3. et alii plures [illegible] informe sacri [illegible] fictione recedente, propterea quod nec ex [illegible], nec ex aliquo testimonio Scripturae, nec ex Patribus hoc colligatur, et [illegible] rationes, quas [illegible] sequuntur. = [illegible] indicamus [illegible] qui admittunt sacri [illegible] informe, recedente fictione [illegible] sacramenti nova obligatione iterandi illud, modo peccatum mortale [illegible] [illegible], [illegible] dolorem ad [illegible] obitum, [illegible] datum fuerit [illegible] absque nova [illegible] recedente [illegible] obice, quippe dolor qui sufficiebat cum sacro, sufficiebat et [illegible] illud, modo [illegible] obex [illegible] [illegible] = Valet [illegible] tolli [illegible] peccatorum [illegible] illorum quae fuerunt [illegible] [illegible] illorum, quae fuerunt concessa, ut explicant Suarez d. disputatione 20 sect. 5. n.º 25. Fagundez cap. 3. [illegible] tractatu 7. cap. 7. q. 12. n.º 167. =

n.º 13 — [illegible] attritio fiat contritio.

Ulterius disputandum est utrum attritio [illegible] contritio, quam [illegible] diversimode [illegible], breviter dicimus quod si loquamur [illegible], attritio [illegible] contritio, quia utriusque [illegible] distinctio, et de [illegible], sive loquamur de [illegible], [illegible] accommodatio, recte hoc fieri potest, sicut frigidum [illegible] calidum [illegible] subiecti, non tamen [illegible] fit calor. Vel homo qui dolorem [illegible] ex imperfecto in perfectum dicitur fieri ex attritio contritus [illegible] sine mutatione [illegible] attritionis [illegible] D. Thomas [illegible] Suarez, [illegible] disputatione 7. [illegible] puncto 2. [illegible] ad 3. p. q. [illegible] art. 3. dubio [illegible] de attritione [illegible] qui examinant [illegible] peccatorum venialium, et [illegible] venialibus [illegible] [illegible] pluraque [illegible] =

n.º 14 — [illegible] attritio venialium sufficiat ab [illegible]

[illegible] investigatio [illegible] attritio venialium [illegible] Sufficiat per se sola attritio [illegible] sacro ad remissionem [illegible] Suarez, [illegible] probabilius [illegible] minime sufficere [illegible] quia [illegible] peccata venialia [illegible] [illegible] sacramenti [illegible] attritis, quae debet [illegible] = [illegible] facit [illegible] peccatum

Venial

Venialia offensa Dei, quamvis in genere sui levis, ut pote ipsi displicens, atque ita aliqua [illegible] aversio, et recessus a Deo, igitur ut remittatur peccatum aliqua aversio in [illegible], de [illegible] peccato veniali conceptus [illegible] per quam avertitur [illegible] ad [illegible], ex [illegible] [illegible] [illegible] q. 87 art. 4. et 7. [illegible] quaest. [illegible] art. 1. dubio [illegible] tract. de [illegible] difficult. [illegible] de [illegible] de Sacris cap. 3 [illegible] Ochagavia tract. 1. de Sacris [illegible] et alii [illegible] Bonacina [illegible] 3 [illegible] =

Dicitur venialia remitti per [illegible]

Denique venialia [illegible] [illegible] sacramentalium quibus [illegible] aqua benedicta, pectus [illegible], panis benedictus, oratio facta [illegible] [illegible] [illegible] non habere [illegible] per se, et immediate remittendi peccata venialia [illegible] [illegible] [illegible] [illegible] [illegible] per quos remitti [illegible] [illegible] Sacramentalibus [illegible] [illegible] [illegible] [illegible] et excitantes, ad [illegible] [illegible] Sacramentalibus concessa, virtute remittendi immediate venialia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] remedia ad remittendam culpam immediate et infallibiliter [illegible] D. Thomas 3. p. q. 87. art. 3. ad 1. et ibi Valentia et alii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Sacramentalia [illegible] venialia [illegible] impetrationis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Sacramentalia [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] q. 6. n. 5. [illegible] [illegible] de aqua benedicta cap. 3. n. 6. = [illegible] [illegible] Sacramentalibus [illegible] [illegible] tribuatur remissio venialium, [illegible] [illegible] [illegible] remissio venialium impetrari solemus [illegible] [illegible] [illegible] [illegible] [illegible] Sacramentalibus [illegible] [illegible] pro remissione peccatorum [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] pane benedicto et benedictione [illegible] [illegible] cap. [illegible] 96. [illegible] [illegible] Sacramentalibus peculiariter promittat a Deo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dimitte ei peccata sua, tradit [illegible]
= [illegible] Suarez Valentia [illegible] [illegible] [illegible] =
= [illegible] 7. [illegible] articulo =

Articulus 87 de Confessione sacramentali quid sit et qualis

= esse debeat. [illegible] [illegible] cap. [illegible] cap. [illegible]
= 40. cap. [illegible] [illegible] cap. [illegible] [illegible] =
= [illegible] cap. [illegible] 7. =

Quid sit Confessio

Inter partes essentiales huius Sacramenti [illegible] Confessio Sacramentalis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 40 [illegible] [illegible] 3. [illegible] cap. 4. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] definitio videtur, ad [illegible] [illegible] et Sacramentalis [illegible] [illegible] peccatorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacerdoti facta [illegible] [illegible] [illegible] definitio [illegible] cap. 43 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] alterius peccatorum [illegible] cap. [illegible] cap. [illegible] [illegible] 72. [illegible] [illegible] [illegible] 87 [illegible] [illegible] 4. [illegible] Greg. [illegible] 40. [illegible] peccatorum Confessio [illegible] [illegible] D. Thomas et alii [illegible] [illegible] [illegible] [illegible] Dicitur autem accusatio legitima ad denotandum [illegible] [illegible] [illegible] [illegible] Sacramentalis [illegible] [illegible] Confessio facta sacerdoti [illegible] Sacramentalis, [illegible] [illegible] ad obtinendam [illegible] virtute clavium [illegible] [illegible] Confessionis [illegible] peccata propria [illegible]. Dicitur [illegible] facta [illegible] Sacerdoti ad denotandum [illegible]

Sacram Confessionem, quam sacerdos [illegible] cap. [illegible] de [illegible]

[illegible] Confessionis

n. 1 Plures sacramentalis confessionis legitimas qualitates et conditiones [illegible] usque ad sexdecim reducere solent DD., quas sequentibus versibus [illegible]:

Sit simplex, humilis confessio, pura, fidelis,
Atque frequens, nuda, discreta, [illegible]
Integra, secreta, lacrimabilis, accelerata,
Fortis et accusans, et sit parere parata.

[illegible] relatam [illegible] D. Thomas in 4. [illegible] ... [illegible] in cap. [illegible] dari [illegible]; Suarez de poenitentia [illegible] ... art. 2. Ochagavia [illegible] aliis referens tract. 2. [illegible] ... [illegible] nempe ad veritatem [illegible] sit simplex, pura, fidelis, nuda, discreta et accusans; [illegible] quod sit frequens, fortis, accusans, secreta, integra. Addo [illegible] quod sit humilis, [illegible] lacrimabilis, accelerata [illegible] ut notat [illegible] in 2. [illegible] ... [illegible] quidam ad [illegible] sacramenti [illegible] ... ut [illegible] ... [illegible] vel [illegible] necessario [illegible] ... [illegible]

n. 2 Iam [illegible] confessionis qualitates [illegible] ... accusatio sit exterior et sensibilis, [illegible] ... et interna [illegible] ... Confessio quae olim in veteri lege sufficiebat [illegible] ... homines [illegible] per [illegible] David psalmo 31. ibi: Confitebor adversum me iniustitiam meam Domino, et tu [remisisti] impietatem peccati mei; nunc autem in lege Evangelica divino extat praecepto confessio auricularis sacramentalis, ut constat ex illo Joannis cap. 1. Si confiteamur peccata nostra, fidelis est et iustus, ut remittat peccata nostra; remissio autem permissa est apud Joannem cap. 20, et apud Matthaeum cap. [illegible], ubi Christus Dominus noster dedit Apostolis et successoribus ministris huius sacramenti potestatem [illegible] et remittendi peccata confessa illis, ubi: Quorum remiseritis peccata [illegible]. Et probatur ex Trid. [illegible] cap. 5. et can. 4. et 7. et omnes Catholici agnoscunt, ut animadvertit post iam relatos [illegible] [illegible] ad [illegible] cap. 5. ubi plures adducit [illegible] hanc rem pertractantes. =

n. 4 Hinc descendit [illegible] signum confessionis esse propriam vocem, [illegible] vox sit signum sensibile ut de se patet, ita ut regulariter peccat mortaliter qui cum possit voce confiteri, confitetur per signa nutus aut interpretem, quippe hic confitendi modus proprius voce [illegible] est convenientissimus ad finem confessionis obtinendum, ideoque communis est [illegible] Catholicorum, ut docent [illegible] de [illegible] dubio 1. n. 3. [illegible] Valentia [illegible] de poenitentia [illegible] Toletus in summa lib. 3. c. 6. n. 1. Excusantur [illegible] a tali peccato qui ob nimiam verecundiam et pudorem sentiens gravem admodum difficultatem propriam confitendi, confitentur quaedam peccata per se [illegible] per alia signa externa, scripturam vel interpretem, quia consuetudo non videtur in hoc casu tam graviter obligare, ut docet [illegible] cap. 20. n. 9. [illegible] per [illegible] Diana 3. [illegible] tract. 3. [illegible] cum sequentibus. Verum ... [illegible] necessitatis sufficere quod talis confessio fiat per [illegible] signa sensibilia et externa, ut accidit in mutis qui ad confessionem obligati et [illegible] voce [illegible], sed tantum signa externa et sensibilia facere, quippe Christus Dominus noster [illegible] instituere voluit ut eius usus omnibus possibilis esset, ut definivit Trid. sess. 14. can. [illegible], [illegible] si sola voce [illegible] non aliter posset fieri, moraliter loquendo omnibus [illegible] esset [illegible] ut [illegible] animadvertit D. Thomas in 4. dist. 17. q. 3. art. 5. quaestiuncula 3. Suarez de poenitentia [illegible] [illegible] n. 2. [illegible] plures alii theologi quos refert [illegible] et Diana [illegible]. =

n. 5 [illegible] haec [illegible] quam [illegible] ad forma[m] correspondere [illegible], sed sacerdos nec licite, nec valide etiam in quacumque necessitate [illegible] per [illegible], aut [illegible] [illegible] nec [illegible] possunt [illegible] [illegible], [illegible] ... [illegible]

Qualitates confessionis

Sit [illegible]

Unde debeat sacerdos voce fieri confessio

Confessio [illegible]

[illegible] debere [illegible] materiam quoad [illegible] et formam certa, sicut mat[eria] [illegible] certam tamen quoad [illegible] ut videmus in aliis sacramentis, et docent [illegible] Fagundez [illegible] lib. 3. cap. 1. n. 7. Suarez [illegible] sect. 3. n. 2. = Nec [illegible] Concilium Tridentinum in decreto de Sacr[amento] [illegible] docear [illegible] huius sacramenti esse Confessionem [illegible] intelligi de confessione ut vulgariter [illegible] et ordinario hominum [illegible] atque ita [illegible] accipi debere [illegible] externo et sensibili [illegible] particularem [illegible] sacramenti esse [illegible]

[illegible]

n. 6. [illegible] Confessionis qualitas et conditio est quod sit fidelis [illegible] vera, et [illegible] materiam Confessionis [illegible] mortale [illegible]

[illegible]

n. 7. Nec [illegible] debet [illegible] mortale [illegible]

[illegible] forma [illegible] ut [illegible] Fagundez [illegible] cap. [illegible]

n. 8. [illegible] Confessionis qualitas et conditio est ut sit diligens, ideo [illegible] praevio examine [illegible] ut statuitur in Trid. [illegible] sess. 14. [illegible] obligentur ad [illegible] singula mortalia [illegible] quale [illegible] examen [illegible] Suarez [illegible] sect. 10. = Quale autem debeat examen [illegible] diligentia ad [illegible] Confessio validae fit [illegible] examinanda conscientia [illegible] diligentia [illegible] revocanda [illegible] prudenti humano more [illegible] videbitur, [illegible] diligentia [illegible] debet [illegible] Confessus [illegible]

[illegible] exercet, sed [illegible] [illegible] [illegible] ut [illegible] [illegible] cap. 4. [illegible] Bonacina [illegible] n.º 5. Navarro [illegible] n.º 72 [illegible] [illegible] [illegible]

n.º 9

[illegible] Confessio [illegible] examine [illegible] [illegible] peccatorum [illegible] negligentia [illegible] Confessarius [illegible] [illegible] mortaliter peccavit [illegible] [illegible] diligentia, ut docet Navarrus [illegible] cap. 9. n.º 6, [illegible] [illegible] ubi [illegible] confessarius facere debet [illegible] [illegible] ad memoriam [illegible] [illegible] Videtur, [illegible] [illegible] diligentia [illegible] [illegible] peccatum [illegible] [illegible] [illegible] [illegible] [illegible] docet [illegible] diligens [illegible] n.º 6. [illegible] [illegible] [illegible] nullum, [illegible] 2.ª [illegible] cap. [illegible] [illegible] [illegible] [illegible] sua [illegible] adhibita modica diligentia accedit ad confessionem [illegible] respondeat ad [illegible] interrogat [illegible] examinandi diligentiam [illegible], ut [illegible] [illegible] cum peccatis [illegible], ut docet [illegible] [illegible] n.º 6. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] intelligendi [illegible] [illegible] [illegible] [illegible] [illegible] confessarius [illegible] expectat [illegible] [illegible] [illegible] ut confessio [illegible], ut docent Bonacina [illegible], [illegible] Fagundez [illegible]

4.º Confessio [illegible]

n.º 10. tribus [illegible]

4.ª qualitas Confessionis est ut integra, cujus integritas [illegible] [illegible] peccata mortalia [illegible] commissa, [illegible] ut explicentur, [illegible] ut addat [illegible] mutantes speciem [illegible] videtur [illegible] cap. [illegible] [illegible] Tridentino [illegible] 14 cap. [illegible] et can. 7. ubi [illegible] [illegible] confessio mortalium [illegible] necessaria [illegible] [illegible] [illegible], sed [illegible] sacramenti [illegible] ad ipsius valorem, ut docet Vitoria in tractatu de [illegible] [illegible] 9. [illegible] [illegible] quia Confessarius est verus judex in conscientiae foro, [illegible] nihil [illegible] occultari [illegible] [illegible] reconciliari Deo [illegible] Trident. [illegible] [illegible] [illegible] homo reconciliari [illegible] [illegible] peccato mortali; atque adeo Sacerdos [illegible] absolvere ab uno peccato mortali quin absolvat ab omnibus, [illegible] sicut absolutio debet esse integra, [illegible] [illegible] [illegible] Sacerdoti integre [illegible] faciendam, ac proinde [illegible] [illegible] [illegible] excusante [illegible] peccatorum mortalium confessus fuerit uni Confessario, [illegible] alteram alteri [illegible] integram Confessionem, sed dimidiam invalidam et sacrilegam ut docent [illegible] de [illegible] cap. 6. [illegible] Fagundez [illegible] cap. 2.º n.º 4.

n.º 11.

[illegible] debeat [illegible] ad integritatem Confessionis numerum peccatorum

explicare, probatur [illegible] [illegible] [illegible] Concilio Florentino [illegible] [illegible]

de n.º peccatorum [illegible]

[illegible], quia [illegible] peccatum mortale [illegible] [illegible] [illegible] Deo [illegible] [illegible] cap. [illegible] 42 [illegible] [illegible] [illegible] Thomas, Belarminus, [illegible] alii quos refert et sequitur Bonacina [illegible] punct. 2. [illegible] [illegible] [illegible] peccatum mortale seorsim, et individuum confiteri, [illegible] sufficere simul [illegible] explicare [illegible] [illegible] [illegible] [illegible], ut animadvertit Bonacina [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] peccandi ad certum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] confessario [illegible] [illegible] peccata, [illegible]

de peccatis

di Consuetudinis, [illegible] [illegible], [illegible] nec meliori modo confiteri valeat, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] art. 4. Vau. [illegible] cap. 6. n.º 15. Fagundez [illegible] cap. 2.º n.º 11. [illegible]

n.º 12.

de circumstantiis [illegible]

Denique [illegible] [illegible] addantur circumstantiae mutantes [illegible] certi de fide definitur in [illegible] 14. cap. 5.º et can. 7, et patet [illegible], nam circumstantiae [illegible]

[illegible]

Quieris tractum peccati ad spem diversa, peccata autem quae differunt specie necesse debent confiteri, neque enim peccata ista ratione aliter multiplicantur, id est ratione circumstantiarum diversarum specie, ut si quis peccaret cum conjugata, qui voto castitatis [illegible] habet duo peccata omisit necesse confitenda, alterum adulterii ratione circumstantiae matrimonii, alterum sacrilegii ratione circumstantiae voti, idem contingit in judice extrahente aliquem ab ecclesia cui immiserat voto [illegible] extrahendi et [illegible] duplici specie sacrilegii omisit [illegible] procedit ex [illegible] quibus [illegible] extrahantur a loco sacro [illegible] inter alia de immunitate ecclesiarum, altero ex fide Deo data ab voto et [illegible] multis exemplis [illegible] Deo dante explicandum in articulo de circumstantiis peccatorum. [illegible] de sigillo, aliis qualitatibus [illegible] exsequemur. =

Sanctus ult. confess. [illegible]

2º [illegible]

Posterior confessionis qualitas est quod sit obediens [illegible] quia cum poenitens subjectus sit sacerdoti [illegible] quantum attinet ad acceptandam poenitentiam [illegible] et ratione probat [illegible] et in Florentino [illegible] ubi cum habeat D. Thomas in 4º [illegible] art. 3º [illegible] debet [illegible] poenitentiam [illegible] quippe quod judicium integrum [illegible] quemadmodum judici debet parere reus judicanti, sic et confessario. Facit deinde [illegible] medicamentum [illegible] recipit medicinalis [illegible] et amaras [illegible] et alia similia. Ex quo [illegible] poenitens [illegible] videtur [illegible] imposita, rogare confessarium ut eam moderetur, sicut hoc absque culpa fieri potest in foro externo ita fieri posse videtur in foro poenitentiali, immo confessarius [illegible] debet poenitentiam [illegible] quantum potest ut suavius efficiatur [illegible], Deo [illegible] absque mortali peccato potest poenitens ante acceptatam poenitentiam, si confessarius nolit moderari, dicere se malle alteri sacerdoti confessionem facere, quia [illegible] habet [illegible] peccati, sed [illegible] alteri [illegible] confiteri, et sicut [illegible] tenebatur eidem confiteri, ab eo [illegible] absolutionem, [illegible] obtinere, ut [illegible] Bonacina [illegible] puncto 4º [illegible] ult. [illegible] habuerit [illegible]. =

n. 24

Aliusque [illegible] quibus integram confessionem exprimere diximus, pertinent ad integritatem quae vocant materialem [illegible] absolute loquendo omnia peccata mortalia [illegible] integre confitetur [illegible] omisit. Est alia integritas formalis [illegible] omnia peccata mortalia [illegible] et numerum confiteri [illegible] et ad hanc formalem integritatem semper poenitens tenetur, ad illam vero quae materialis dicitur [illegible] quippe [illegible] in multis casibus in quibus homo formalem integritatem adhibita valide et integre confiteri dicitur [illegible] quamvis venialia [illegible] mortalia absolute [illegible] confessario, [illegible] 17 [illegible] infirmus in mortis articulo [illegible] non potest explicare aliquod peccatum individualiter, sed solum dicit peccavi, [illegible] absolute [illegible] plura [illegible] et [illegible] testimonia adducere [illegible] Suarez [illegible] 8. cap. [illegible] n. 10. = [illegible] est quod poenitens [illegible] confessionem sacramentalem per [illegible] potuerit, [illegible] multis modis [illegible] velut si [illegible] surdus, [illegible] linguam, aut [illegible] omnia [illegible] explicare peccata [illegible] frequenter, aut periculum [illegible] ob quod exprimere peccata non potuerit, nec [illegible], aut naufragii [illegible] potest confessarius dicere [illegible] absolvo [illegible] poenitens omnia mortalia [illegible] non explicaverit ut docent Enriquez [illegible] summa lib. 5º cap. 12. n. 3. Suarez disp. 23. sect. [illegible] disp. 7. [illegible] dubio 9. n. 77. Bonacina [illegible] puncto 2º [illegible] n. 7 [illegible]. =

Aliis [illegible]

[illegible] quod [illegible] prudenter [illegible] confessarius [illegible] gravi morbo laborat, [illegible] poenitens non posset expectare absolutionem [illegible], [illegible] posset [illegible] in [illegible] legitima causa omittendi [illegible] peccatorum [illegible] docet [illegible] disp. 9. art. 2. dubio [illegible]. = 4º Casus [illegible] gravi [illegible] aliquid [illegible], aut [illegible] poenitenti resultaret ex aliquo peccato, vel peccatorum confessione [illegible] confessionem faciendam, [illegible] vel illa omittere in confessione [illegible] explicandi [illegible] periculo, quippe

Quippe [illegible] integritas confessionis non obligat cum tanto detrimento, veluti si occidendus esset, vel si timeret confessarius vel [illegible], aut [illegible], qualis [illegible] habuisse, et [illegible] habere [illegible] confessionis [illegible] peccata aperiat, timeat [illegible], vel alter [illegible] revocat, ut docent Toletus [illegible] lib. 3. cap. 8. Navarrus in man. cap. 7. n. 4. [illegible] confessione prudenter [illegible] timeat [illegible] a confessario sollicitandum, vel infamandum ab illo [illegible] revelare [illegible] Suarez [illegible] disp. 33. sect. 2. Bonacina d. q. 5. 4. n. 11. Fagundez [illegible] n. 9. [illegible] periculum alteri [illegible] imminet [illegible] Navarrus in [illegible] consideret [illegible] 6. n. 3. [illegible] de confessione [illegible] Thomas Toletus [illegible] et Fagundez [illegible] citatis [illegible] nullas [illegible] habere [illegible] et [illegible] confessione =

= [illegible] de hoc [illegible] confessionis =

= articulo [illegible] sufficient =

Articulus 9. us De satisfactione ad [illegible]

= In cap. Satisfactio 8. [illegible] quaerat 44. § illud [illegible] =

= [illegible] Trid. sess. 14. cap. 8. et 9. et Can. 12. et 13. =

Cur et quomodo sit satis- [illegible]

Inter partes integrales huius sacramenti [illegible] connumeratur satisfactio, ut [illegible] Trid. [illegible] 9. et can. 4. [illegible] Florentino in [illegible] a Divo Thoma 3 p. q. 90. art. 2. [illegible] quae ad [illegible], vel quae [illegible], [illegible] Angelicus [illegible] testatur 3 p. q. 86. art. 4. [illegible] fit [illegible] temporalis [illegible] gratia cooperantis, quamque dicimus satisfactionem spontaneam et voluntariam [illegible] a sacerdote [illegible] impositam [illegible] [illegible] ut [illegible] debet a confessario [illegible] satisfactio [illegible] poenalis voluntarie assumpta ad puniendum peccatum commissum, aliud [illegible] voluntaria [illegible] imposita a sacerdote, ut [illegible] perfectiorem [illegible] de [illegible] cap. [illegible] poenitentiae [illegible] Trid. sess. 14. c. 8. et can. 12. et 13. Docent [illegible] Thomas in additione [illegible] ad 3. p. [illegible] q. [illegible] art. 3. Navarrus in manuali c. 3. n. [illegible] aliique plures [illegible] satisfactio [illegible] =

Duplex [illegible]

[illegible] quae [illegible] difficultas [illegible] satisfactio [illegible] posterior tempore [illegible] pars integralis [illegible] significans gratiam remissivam peccati. [illegible] Divi Thomae doctrina q. [illegible] art. 1. ad [illegible] ubi docet complementum huius sacramenti esse absolutionem, quam [illegible] nihil intervenire [illegible] nec satisfactio [illegible] confirmationem [illegible] hoc sacramentum sit instar judicii, [illegible] complementum [illegible] ut patet ex toto tit. de re judicata, [illegible] hoc sacramentum [illegible] complementum recipere ex absolutione sacerdotis [illegible] sententiis in hoc sacramento [illegible] judicio. = [illegible] difficultas [illegible] satisfactio non est [illegible], nec [illegible] remissionis peccati, sed [illegible] reliquiis ex peccato, vel augmenti gratiae, [illegible] remissionis peccati [illegible] absolutionis [illegible], [illegible] significat [illegible] causat remissionem [illegible] reliquiis ex peccato et auget gratiam [illegible] satisfactio non est pars integralis sacramenti [illegible] ut aliquid sit res integralis alterius debet illud [illegible] constituitur, [illegible] sit constitutum [illegible] signum efficaciter significans remissionem peccati [illegible] satisfactio advenit. = [illegible] dubitatio [illegible] pars integralis [illegible] satisfactio [illegible] sacramenti [illegible] ab illo [illegible] satisfactio [illegible] sacramenti [illegible]. =

De Solutione difficultatis.

[illegible] ad [illegible]

quod satisfactio sacramentalis est pars integralis [illegible] illud [illegible]

[illegible] quia sacramentum paenitentiae [illegible] nam sequi permanens habens partes [illegible] existentes, ad successivum [illegible] habeat partes unam post aliam, quarum nulla est [illegible] satisfactio sit tamen posterior, [illegible] pars integralis [illegible]. Nec doctrina Divi Thomae [illegible] nos movet, quia Angelicus Praeceptor [illegible] absolute ultimum complementum [illegible] formae. unde [illegible] ultimum absolutio [illegible] genere, adhuc [illegible] quae [illegible] postea advenire potest ut pars integrans sacramenti paenitentiae, [illegible] advenit [illegible] formae [illegible] integrantis. [illegible] sub ratione [illegible] ut [illegible] — Nec [illegible] dissentit, quia hoc sacramentum [illegible] remedium culpae [illegible], ut [illegible] aliquid sit [illegible] integralis alterius necesse ut integret illud [illegible] quae constituitur [illegible] integrat hoc sub [illegible] qua [illegible] constituitur = Nec repugnat [illegible] dubio [illegible] integrare [illegible] ut causa [illegible] formaliter, essentialiter [illegible] integrare illud [illegible] manifestatur exemplo [illegible] integrat [illegible] formaliter, [illegible] entitatis, [illegible] satisfactio integrat sacramentum paenitentiae [illegible] sacramentum [illegible], ut docet Suarez [illegible] supponit, sed ut causa [illegible] perfectionem [illegible] [illegible] =

Ex quo sequitur [illegible] ante [illegible] imponendi [illegible]

[illegible] [illegible] tamen [illegible] recipere, [illegible] sit [illegible] [illegible] habere [illegible] acceptandi, vel recusandi. Qua [illegible] alteram docet [illegible] liberam habere [illegible] facultatem quoad acceptationem, vel recusationem, [illegible] Caietanus [illegible] sequitur [illegible] cap. 2. n. 5. ubi [illegible] adducit fundamentum [illegible] affirmat [illegible] acceptandam satisfactionem impositam a sacerdote, [illegible] Divus Thomas [illegible] [illegible] [illegible] fundamentum adducit Tridentinum decretum [illegible] quo refert, [illegible] Enriquez lib. 5. de sacramentis cap. [illegible] ubi [illegible] fundamentum adducit [illegible] satisfactio sit acceptanda; [illegible] cap. 8. [illegible] in qua diversitate magis placet [illegible] de [illegible] et remissionibus, ubi [illegible] paenitentia [illegible] videtur excepta [illegible] utrumque [illegible] de [illegible] [illegible] modo [illegible] [illegible] [illegible] ubi asseritur [illegible] [illegible] [illegible] diligenter adimplere, [illegible] plura fundamenta adducentes [illegible] in 4. dist. 20. [illegible] Bellarminus lib. 4. de paenitentia cap. [illegible] =

n. 5

Inferunt de [illegible] solere an satisfactio conferat [illegible] ex opere operato, an vero ex opere operantis. [illegible] Divus Thomas [illegible] q. [illegible] ad [illegible] Caietanus [illegible] sequuntur, dicunt satisfactionem sacramentalem [illegible] ex opere operato. [illegible] in 4. dist. [illegible] q. [illegible] [illegible] ibidem [illegible] satisfactionem [illegible] argumentorum existimant satisfactionem nullum effectum conferre ex opere operato, sed tantum ex opere operantis. Ex quibus duabus sententiis [illegible] quae docet satisfactionem sacramentalem [illegible] remissionem poenae temporalis [illegible] peccatis [illegible] remedium, [illegible] auxilia [illegible] ad futura peccata facilius praecavenda, [illegible] ex opere operato. [illegible] de mente Divi Thomae in 4. dist. [illegible] q. [illegible] art. [illegible] ad 3. [illegible], ad [illegible] [illegible] satisfaciendi [illegible] satisfactio actualis gratiam [illegible], vel [illegible] satisfaciendi [illegible] gratiam peccata abolentem, qua liberatur totaliter a reatu peccati, [illegible] ratione, quia satisfactio ut [illegible] sacramenti debet participare aliquid ex natura totius, et consequenter debet aliquid conferre ex opere operato, nequit conferre remissionem culpae, aut poenae [illegible], nam [illegible] gratia habitualis remittitur quam satisfactio non confert, [illegible] solum confert remissionem aliquam poenae temporalis. =

n. 6

In huius doctrinae confirmationem facit Concilium Tridentinum [illegible] 7. ubi asseritur sacramentum [illegible] efficere ex opere operato [illegible] significant, atqui satisfactio solum [illegible] et remissionem [illegible] reliquiis peccati, [illegible] peccata praecavenda facilius [illegible] gratia habituali, sed ab operibus [illegible] auxiliis gratiae [illegible], ergo satisfactio dumtaxat confert ex opere operato remissionem poenae temporalis et auxilia ad praecavenda facilius peccata

absoluti

influxu = Cumque fiat quod si satisfactio gratiam conferret ex opere operato sequeretur [illegible] peccatores cum solam attritionem justificari extra sacramentum, sed absolute [illegible] aliquem extra sacramentum justificari, quod dicendum satisfactionem non conferre [illegible] [illegible] [illegible] [illegible] [illegible] Divi Thomae 1594 articulo 2. dubio 5. [illegible] de sacramentis [illegible] 27 [illegible]

n.º 27 Similiter ex dictis deducitur satisfactionem sacramentalem in peccato quomodo et ex modo peccati satisfactionem conferre [illegible] ex opere operato 27 probabilis [illegible] quando defendunt [illegible] disputatione [illegible] Vasquez [illegible] parte 2.ª dubio 5. quod [illegible] tenuit, non enim [illegible] sacramentalis sit sola remissio [illegible] [illegible] auxilii [illegible] [illegible] suo effectu [illegible] in peccato [illegible], [illegible] meritum [illegible] peccatum [illegible] [illegible] satisfactionis sacramentalis, [illegible] [illegible] in peccato, [illegible] remissio poenae temporalis ex peccatis iam condonatis relictis. [illegible] sacrum [illegible], [illegible] gratiam conferunt [illegible], [illegible] gratiam [illegible] [illegible] [illegible] satisfactionis, altera [illegible] remissionis poenae [illegible] [illegible] [illegible] in peccato [illegible] altera [illegible] [illegible] indulgentiae, ut docent Vasquez [illegible] et [illegible] [illegible] [illegible] =

n.º 28 Contra hanc doctrinam [illegible] Consideratio difficultatis [illegible], [illegible] satisfactio sacramentalis [illegible] in peccato [illegible] est, conferret ex opere operato, sequeretur indulgentias [illegible] in peccato [illegible] [illegible], conferret ex opere operato, [illegible] indulgentiae [illegible] [illegible] [illegible] et meritorum Christi [illegible] [illegible] poenae temporalis relictae [illegible] condonatis [illegible] [illegible] in peccato [illegible] indulgentia, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Confessi [illegible] [illegible] [illegible] [illegible] et remissionibus, [illegible] satisfactio [illegible] adimpleta [illegible] effectus conferre [illegible] ex opere operato. = Huic difficultati dupliciter potest responderi dicendo quod licet indulgentiae [illegible] in peccato mortali existentibus, [illegible] [illegible] [illegible] satisfactio sacramentalis non prodest, [illegible] [illegible] [illegible] poenitentis confert, consequenter indulgentiarum effectus, satisfactionis [illegible] sacramentalis effectus [illegible] peccatoris, quoniam thesauri spiritualis dispensatio [illegible] [illegible] in gratia poenitentis, effectus [illegible] satisfactionis sacramentalis [illegible] cum peccato. 2.º dicere possumus differentiam indulgentiae, et satisfactionis provenire ex diverso modo quo utraque fuit instituta a Christo Domino, [illegible] satisfactio instituta [illegible] [illegible] [illegible] [illegible] sacrum ut poena temporalis ex peccatis iam condonatis relicta relaxetur immediate a Christo [illegible] [illegible] [illegible] indulgentia non immediate a Christo, sed a suo Vicario per modum dispensationis [illegible] potestate [illegible] merita sua, ut dispensator dispensandi fidelibus [illegible] exigente causa =

n.º 29 Et quod diximus et aliud provenit [illegible] [illegible] principalis causa [illegible], [illegible] alteri illa dispensat, [illegible] ille cum sit absolutus dominus bonorum suorum gratis [illegible] cui vult, et modo quo illi videtur [illegible] [illegible] [illegible] [illegible] nulla requisita causa [illegible] [illegible] [illegible] [illegible] [illegible] bonorum [illegible] pendeat ex voluntate [illegible], [illegible] [illegible] dispensatio [illegible] sit dominus, sed dispensator tantum bonorum alterius, [illegible] [illegible] dispensatio rationabilis [illegible] causa [illegible] in cuius favorem fit, [illegible] [illegible] [illegible] conditione potestas dispensandi [illegible], [illegible] [illegible] [illegible] [illegible] dispensator thesauri spiritualis, [illegible] [illegible] [illegible] provenit, quia [illegible] [illegible] [illegible] a peccatore poenas ex condonatis peccatis relictas [illegible] [illegible], [illegible] [illegible] [illegible] dispenset debet habere causam, quae moraliter praebeat [illegible] [illegible] [illegible] [illegible] [illegible] in creaturam, causa autem [illegible] indulgentia requiritur in fidelibus, [illegible] [illegible] [illegible] [illegible] [illegible] habet [illegible] poenas ex peccatis relictas, [illegible] indulgentiis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] [illegible] difficultas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] jubileo, [illegible] notabili [illegible] =

n.º 30 Ex quibus [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] possit [illegible] [illegible] Commentatore [illegible] [illegible] [illegible] [illegible] [illegible]

quiescere debere in altera [illegible], quam defendit Diana tract. 15. miscellaneorum et tract. 4. de sacramento poenitentiae resol. 53. cum ut [illegible] certitudine voluntatis, sequens quod confessarius [illegible] propria auctoritate commutare [illegible] votum [illegible], poenitens [illegible] a confessario [illegible], [illegible] videtur [illegible] aut [illegible] votum [illegible] [illegible] [illegible] Facultas [illegible] de sacramento poenitentiae [illegible] Tomas Sanchez [illegible] 1. c. [illegible] n.º 36. [illegible] plura adducunt [illegible] [illegible] Nec quod [illegible] [illegible] votum [illegible], magna [illegible] satisfactionis, quoniam votum pendet a voluntate voventis, [illegible] voluntatis [illegible] votum [illegible], [illegible] quarto [illegible] placeat. [illegible] sacramentalis pendit a [illegible] clavium [illegible] [illegible] = Nicholaus [illegible] [illegible]

n.º 11

[illegible] ut [illegible] [illegible] Suarez [illegible] 38 sect. 9. [illegible] satisfactionem [illegible] sacramentalis ad [illegible] [illegible] peccatorum solvendum [illegible] poenitentiae adimplere, potentem [illegible] [illegible] Vasquez q. 94. art. 2. dubio [illegible] n.º 10 [illegible] satisfactionis sacramentalis [illegible] videtur, ad quod movemur, ex [illegible] poenitens [illegible] sacerdote [illegible] quae [illegible] solum [illegible] Clavium [illegible] ad satisfactionem [illegible] sacerdotis clavium [illegible] extendunt ultra, nec [illegible] adimpleta pro debet poenitentia [illegible] modo operis operantis, [illegible] modo operis operati [illegible] tanti [illegible] dubitatio, [illegible] solvitur [illegible] fundamenti. =

n.º 12

Hinc [illegible] [illegible], [illegible] quanto tempore differri [illegible] poenitentiae adimplendum, in qua Diana loco [illegible] citato arbitratur [illegible] differri [illegible]. Suarez d. [illegible] 38 sect. [illegible] n.º 7. [illegible] teneri poenitentem adimplere poenitentiam [illegible] primo [illegible] potuerit. [illegible] poenitens [illegible] aliquod tempus poenitentiam adimplere non posse, teneatur [illegible] adimplere [illegible] primo [illegible], ne relinquat [illegible] sacramentum ex defectu satisfactionis, [illegible] integralis [illegible] [illegible] [illegible] [illegible] poenitentiae [illegible] Secundo [illegible] adimplere [illegible]. = 3.º [illegible] poenitens qui oblitus [illegible] poenitentiae sacramentalis teneatur [illegible], in qua negant [illegible] Vasquez [illegible] et alii plures [illegible] poenitentem teneri repetere [illegible], sed solum teneri ad confitendum peccatum negligentiae si forte culpabiliter oblitus sit [illegible] licet [illegible] poenitens [illegible] petat a confessario [illegible] aliam poenitentiam loco eius cuius est oblitus [illegible] culpa. =

n.º 13

[illegible] Confessarius [illegible] Sacerdos [illegible], negant plures quos refert Diana tract. 4. de sacramento [illegible] 4. [illegible] affirmantium [illegible] [illegible] poenitentiae sacramentalis [illegible] Thomas Sanchez [illegible] 8 [illegible] 34 n.º 41. et [illegible] licet [illegible] alterius, [illegible]

d. 9. q. [illegible] decisionem

[illegible]

... [illegible] ... sufficit ut ... debeatur ad Confessionem ... quae ... imponatur ... sive alter ... Sanchez ... citatis ubi ... fundamenta ... [illegible]

n.° 14

2.a quaestio ... Confessarius pro gravibus delictis ... poenitentiam ... imponere ... art. 2. dubio ... [illegible] ... affirmant Suarez disp. 38 ... Sanchez ... [illegible] ... In hac controversia dicimus sacerdotem ... delictis, de quibus ... digna satisfactio ... imponere sub praecepto ... poenitentiam ... sub praecepto aliquam ... quae ... sacramentalis ... ex opere operato ... Bonacina et alii ... Aversa disp. 4 ... [illegible]

n.° 15

3.a quaestio ... confessarius ... [illegible] ... affirmative ... defendit ... ubi ... peccato ... poenitentiam ... cautela ... futura peccata ... negative ... Lugo ... Granados ... [illegible] ... fundamentum quia ... poenitentis ut ... constet poenitentis adaequate ... peccatum confessarius ... aliquam poenitentiam. Verum quamvis ... obligatio ... regulariter ... sacerdos aliquam ... imponere poenitentiam. =

n.° 16

4.a quaestio an ... auditio missae imponatur ... propositum ... vel ieiunium ad quod alias tenebatur poenitens ex praecepto ... licet ... scriptores, nos affirmative respondendum iudicamus ... si pro poenitentia imponatur duas missas die festivo audiendas, poenitens tenebitur ad duas ... sub praecepto tenetur audire, vel si pro poenitentia ieiunium imponatur die ... determinato ... si die festivo imponatur auditio sacri, poenitens non satisfacit si die praecepti ieiunet, vel audiat ... nisi hoc exprimatur a confessario, ceterum si duo sacra imponantur die festo probabiliter ad tria sacra audienda ... confessarius ... poenitentem obligare ut docet ... d.° ... 9. n.° 25. =

n.° 17

Quinta quaestio an nova poenitentia imponenda sit ei qui ... post sacramentalem absolutionem ad confessionem redit, cuius dubii ... sit haec dist.°, si ... confessio variatur substantialiter iudicio confessarii, ut si peccata sint mortalia ... tenebitur confessarius novam poenitentiam imponere, si vero peccata de novo adducta sint venialia, vel ... alias confessa ... peccata iudicio sacerdotis substantialiter non variatur, novam imponere non tenetur, quippe ... confessio ... moraliter ... unius ... moraliter ... sufficit una poenitentia ut docet ... n.° 6. =

n.° ult.

6.a et ultima quaestio an satisfactio ab uno confessario ... possit ab alio mutari, affirmant Suarez, Vazquez ... et alii ... negant ... ex antiquioribus negant. In qua diversitate existimamus verius ... quemlibet ... confessarium mutare posse poenitentiam ab alio ... imponitam, ... confessio ... peccatis ... fuit imposita poenitentia ... [illegible] ... expectantes ... tempus ... imponimus ... de satisfactione ... integre explanare ... de circumstantiis peccatorum, de ... et de sigillo ... Deo ... proseguemur, ... Dei ... filii ... Virginis ... conceptae ... [illegible]

Amen. =

Articulus Decimus De Circumstantijs Pecca[ti]

= Quae necessario in confessione explicandae, vel non, [illegible] =

= Vide in capitulo 1° de poenitentia [illegible] =

Quid sit Circumstantia. §. 1

Cum non modo [illegible] peccata, ut hactenus diximus, [illegible] ex illis plurimum pendet consideratio Circumstantiarum, ideo de ipsis illico [illegible] agendum est, et [illegible], omissa [illegible] vocis significatione, de qua late Aulus Gellius lib. 3. cap. 7. dicimus Circumstantiam esse accidens actus humani, ut animadvertit D. Thomas 1. 2. q. 7. art. 1°, Navarrus in [illegible] cap. [illegible] de poenitentia [illegible] plurium, eo illa Circumstat, [illegible] extra substantiam actus attingens; ideoque Circumstantia peccati est quoddam accidens ipsius peccati, [illegible] substantialiter simpliciter considerati, [illegible] ut Circumstantia in tantum augeat malitiam actionis, ut hic [illegible] Circumstantiam, qualis est [illegible] Sanchez [illegible], ut post alios [illegible] praecepto lib. 4. [illegible] exempla adducit, [illegible] valeat [illegible] Concilium Tridentinum sess. 14. cap. 5. [illegible] Circumstantia [illegible] speciem peccati mutant, et [illegible] ut dicamus Circumstantiam [illegible] peccati essentialiter, et accidentaliter, ut animadvertit Gregorius de Valentia 4. [illegible] puncto 1. Vide [illegible] 3. [illegible] =

§. 2 *Quomodo Consideretur.*

Hinc tamquam [illegible] Circumstantias peccatorum explicandas esse in confessione, ut [illegible] in cap. 1. de poenitentia [illegible] Circumstantiis obiectis, [illegible] inquirere peccatorum Circumstantias, et peccati [illegible] Trident. sess. 14. c. 5. [illegible] generali, [illegible] cap. 102 [illegible] Catechismo Romano Pij 5. 2a parte cap. 5. q. 41. [illegible] auctoritatibus colligitur Circumstantias ex quibus augeri, vel minui peccatum [illegible], quae vel respectu ipsius actionis, vel respectu agentis principalis, vel ratione loci, vel ratione instrumenti, et quibus auxiliis fecerit, vel [illegible], vel denique ratione temporis, [illegible] quis, quid, ubi, quibus auxiliis, cur, quomodo, quando, [illegible] plures referens, [illegible] Frater Petrus de [illegible] in summa Theologiae moralis [illegible] 3. [illegible] =

§. 3 *[illegible] triplex [illegible] Circumstantia.*

Verum quia non omnes Circumstantias [illegible] necessario in confessione explicandas [illegible] est, [illegible] observandum est Circumstantias esse in quadruplici differentia, aliae enim sunt quae nec [illegible], nec diminuunt delictum, veluti [illegible] vel [illegible]. Aliae sunt diminuentes, veluti malum [illegible] ignorantia [illegible] cap. [illegible] de poenitentiis et remissionibus. Aliae sunt quae dicuntur notabiliter aggravantes intra eandem speciem, veluti [illegible] aliquem odio [illegible]. Aliae denique quae gravant peccatum, et illud mutant [illegible] specialem habet repugnantiam ad aliquod [illegible] vel humanae legis, veluti Circumstantia [illegible] in peccato luxuriae, et Circumstantia loci [illegible] vel aliis [illegible]. In genere Circumstantias [illegible] peccato mortali efficiunt veniale, [illegible] inadvertentia, vel [illegible] alicui damnum [illegible], vel [illegible] inadvertentia a mortali excusat, ut eleganter animadvertit plures referens [illegible] puncto 2. [illegible] =

§. 4 *[illegible]*

[illegible] Circumstantiae necessario sint explicandae in confessione, vel non explicandae [illegible] mutantes peccati [illegible]

procul dubio est necessario explicandus in confessione. Et de fide proponitur in Trid. sess. 14 c. 5 [illegible]
et Can. 7. [illegible] cum Confessarius sit medicus, et iudex poenitentis, [illegible] ut
medicus [illegible] vulnera peccatum, et tanquam iudex substantiam delicti arg. [illegible]
[illegible] in fide ff. ad [illegible] de adulter. l. qui bona [illegible] §. final. ff. de damno infecto
[illegible] peccatum [illegible] cum circumstantiis mutantibus speciem, cum [illegible]
[illegible] in homicidio, vel fornicatio in [illegible] perpetrato, [illegible] circumstantia peccati [illegible]
[illegible] quo fuit [illegible] polluta, vel si copula habeatur cum [illegible] quae [illegible]
coniugata, [illegible] adulterium [illegible], vel [illegible] sit raptor [illegible]
adulterium [illegible] et [illegible] ut Vot. [illegible] quia peccavit [illegible] intemperantia
[illegible] tradunt [illegible] doctrinam asserentes [illegible] peccatum [illegible] circumstantias
confiteri [illegible] inst. moral. [illegible] 4. [illegible] sacram. [illegible]
Navarrus [illegible] cap. [illegible] D. Thomas [illegible] Suarez, Valent. [illegible] quos refert [illegible]
[illegible] n. 80 =

n. 5

Quae doctrina de circumstantiis peccati speciem mutantibus [illegible]

Superior doctrina explicatur.

[illegible] quod fuerit externe executum [illegible], et [illegible] fuerit interne in sola cogitatione consummatum,
[illegible] ut constat ex Trid. [illegible] mortalia [illegible] cogitationibus [illegible]
[illegible] quia certum est actum interiorem posse habere plures malitias, velut desiderium occidendi
[illegible] habet malitiam [illegible] sacrilegii, et accedendi ad [illegible] mortale [illegible] habet
malitias fornicationis, adulterii, vel sacrilegii, [illegible]
[illegible] ut docent Suarez [illegible] Sect. [illegible] 4. Fagund. [illegible] cap. [illegible] n. 5. = [illegible]
oblitus circumstantiae mutantis speciem, [illegible] peccatum [illegible] tenetur ad [illegible] confiteri [illegible]
[illegible] malitiae sumpta ex illa circumstantia [illegible] fuit [illegible] absolutus [illegible]
[illegible] idemque [illegible] debet [illegible] ut [illegible] tradunt [illegible]
[illegible] Suarez [illegible] Sect. 22. n. 8. Nav. [illegible] cap. [illegible] n. 5 [illegible] n. 20. =

n. 6

Deinde Animadvertendum circumstantias, quae nec aggravant nec diminuunt

De circumstantiis quae nec aggravantibus, nec diminuentibus [illegible]

[illegible] debere in confessione explicari, imo [illegible] est [illegible] simplicibus, et discretis confessionibus, [illegible] ex [illegible]
[illegible] nec augeant peccati malitiam [illegible] moralem, nec pertinent ad [illegible] atque
a DD. solent dici impertinentes [illegible] ut animadvertit Medina [illegible]
Confess. [illegible] Suarez [illegible] Sect. 22. [illegible] n. 4. [illegible] docent [illegible] circumstantias [illegible]

[illegible] exempla [illegible]

[illegible] peccatum veniale, ut si [illegible] executionis impertinentes peccati, velut [illegible]
[illegible] rogatus ab amico, interdum [illegible] mortale, ut [illegible] in duello, [illegible]
[illegible] nec debui honorem meum aliter defendere, [illegible] verum existimamus in hoc [illegible]
[illegible] peccatum mortale ex [illegible] circumstantiis [illegible] complacentia. Docent Nav. [illegible]

n. 7

Amplius ut cognoscatur quid debeat observari in circumstantiis

[illegible] circumstantiis diminuentibus [illegible]

[illegible] diminuentibus, [illegible] huiusmodi circumstantias [illegible] in duplici differentia, quaedam [illegible]
minuunt malitiam peccati ut speciem illius mutent, [illegible] tollant, aut minuunt eandem,
[illegible] peccati. [illegible] priores [illegible] fuerint circumstantiae absque dubio [illegible] debere [illegible]
in confessione. ut [illegible] in Trid. [illegible] cap. 5. et can. 7. et tradunt [illegible] Nav. [illegible]
[illegible] Suarez [illegible] Sect. [illegible] n. 5. Fagund. [illegible] cap. 2. n. 8. Paulus Laiman [illegible]
cap. 20. n. [illegible] qui plura [illegible] adducunt exempla, [illegible] sufficiat [illegible]
[illegible] Clericus [illegible] homines, [illegible] ignorans esse clericum, [illegible] excusatur [illegible]
[illegible] ab [illegible] homicidio [illegible] ad similitudinem [illegible] qui cognovit [illegible]
[illegible] existimavit esse solutam, aut consanguineam [illegible] cognatam, [illegible] adulterii,
[illegible] malitiae [illegible] intemperantiae, [illegible] explicandum [illegible] poenitentis [illegible] ut confessarius
[illegible] possit facere iudicium [illegible] qualitate peccati [illegible] imponere [illegible]
[illegible] sequuntur =

n. 8

Si vero [illegible] circumstantiae fuerint talis qualitatis ut diminuant

Circumstant mortale peccatum intra lineas [illegible], tunc debebit necessario in confessione exprimi, nec licet intimam vel externam peccati mortalis, in [illegible] mortalis culpae, atque ideo potest peccator illam inculpabiliter relinquere in declarando, aut explicando Confessori, dummodo [illegible] interrogatus [illegible] mandatis omittat. quapropter [illegible] dicere se peccasse quia fuit provocatus a femina, aut acceptasse duellum ob laudem provocati, vel peccatum [illegible] vel bono fine, cuiuscumque modi, et aliis circumstantiis, licet aliquo modo minuunt malitiam in tamen illis tollunt, aut levigant quin remaneat peccatum mortale, ad [illegible] significavit [illegible] de poenit. et remiss. [illegible] cap. [illegible] de homicidio. [illegible] Circumstantias dicere et explicare velit, potest [illegible] licite id facere, tradunt Soto et Suarez ubi supra, Cardinalis Turrecremata in [illegible] cap. [illegible] de poenit. [illegible] Coriduus de Sacramentis [illegible] dubio [illegible] Fagundez [illegible] [illegible] =

N.º 9

De circumstantiis aggravantibus.

Denique maior difficultas est de circumstantiis aggravantibus notabiliter intra speciem peccati, quippe an obligatio sit illas explicandi confessori, valde inter Scriptores controversia est, aliis enim [illegible] [illegible] atque defendunt has circumstantias [illegible] notabiliter aggravantes [illegible] necessario confitendas, inter quos [illegible] D. Thomas in 4.º dist. 16. q. 3. art. 2 [illegible] [illegible] 21 [illegible] art. [illegible] [illegible] [illegible] [illegible] [illegible] Lib. 1. [illegible] cap. 10. n.º 5. [illegible] de poenit. [illegible] 9. [illegible] aliis plures quos refert [illegible] [illegible] 1. tomo [illegible] 7. de circumstantiis aggravantibus [illegible] in sequentibus et [illegible] [illegible] resolut. 67. cum [illegible] [illegible] [illegible] adducit [illegible] [illegible] [illegible] Videndus. = Alii vero plures [illegible] authores [illegible] affirmativae [illegible] aut dicentes [illegible] circumstantias [illegible] necessario confessori explicandas in confessione esse, quales sunt Dominicus Soto in 4.º dist. 18 q. 2 art. 4. [illegible] 7. [illegible] de Soto [illegible] Caietanus [illegible] Confessio Suarez [illegible] [illegible] [illegible] [illegible] [illegible] in praecepta decalogi lib. 2. c. [illegible] 24. Azor [illegible] lib. 4. cap. 19. [illegible] Enriquez [illegible] et Fagundez ubi supra [illegible] [illegible] adducunt fundamenta =

N.º 10

Ex hac [illegible] opinionum contrarietate, et tam [illegible] [illegible] dissensione dicimus priorem negativam [illegible] valde probabilem, et satis tutam in conscientia esse, atque posteriorem affirmativam probabiliorem, atque tutiorem esse. quapropter cum quis per circumstantias notabiliter aggravantes [illegible], et ordinarium peccati modum excesserit debet illas confessori explicare, ut [illegible] [illegible], et peccati gravitatem intelligat [illegible] ordinario, et qui [illegible] intelligeret. Confessor autem [illegible] [illegible] poterit poenitentem de huiusmodi circumstantiis, cum ipse teneatur [illegible] confiteri, Confessor enim ius habet interrogandi [illegible], cum [illegible] [illegible] ad plenam [illegible] totius gravitatis et deformitatis peccati, [illegible] poenitens eidem interroganti respondere, et [illegible] explicare debet, cum sua sponte confiteri obligatus erat, quippe in hoc casu ipso interrogatio [illegible] non addit obligationem rei, sed illam supponit, atque ideo Confessor juste interrogat quod poenitens habet obligationem confitendi, ut late tradit Suarez [illegible] [illegible] n.º 10. Enriquez [illegible] cap. [illegible] [illegible] usque ad finem =

N.º 11

explicatio dictorum [illegible]

His ita expositis convenit explicare [illegible] dictiones [illegible] [illegible] quorum [illegible] [illegible], cum denotat status peculiaris peccantis, cuius circumstantia [illegible] et mutando speciem, ut si persona sacra sit, et habeat votum castitatis, nam tunc transfert actum in [illegible] intemperantiae, vel sacrilegii aut si persona [illegible] ad quam [illegible] gubernatio vel [illegible] cum [illegible] [illegible] actus [illegible] in alio [illegible] forent [illegible] transferentur [illegible] [illegible] [illegible] persona publica cum [illegible] habere solet malitiam scandali, quam in alia non haberet, [illegible] [illegible] [illegible] similibus circumstantia necessario confitenda est [illegible] [illegible] qualitas et [illegible] [illegible] ut probabimus [illegible] cap. [illegible] in varietate personae [illegible] [illegible] [illegible] [illegible] [illegible] 4 [illegible] [illegible] = Aliquando autem huiusmodi circumstantia personae peccantis ita auget peccatum ut non mutet

speciem

Spem, licet illud notabiliter agravet; quippe, quamvis in psnis Corporalibus mitius p[unia]tur persona nobilis, et dignitate Constituta xª. tradit cap. quid. pars 32, 249. d. 10, et g. L. 2ª. C. ut nemo privatus, in pena pecuniaria, vel spirituali, maius animadversione nobilis, et Constitutus in dignitate, quam ignobilis et plebeius, quia tenuis ... Castellinus cap. sancto 3º. eius detenus tt. q. 3. cap. nulli f. de 425. ... per ... cap. Lbno Diplavus 40º, Gerson maioribus quis donis fungatur, maior noster ingratitudo, ... ubi maior status prerogativa. ... ... peccando ... exemplum, ... aliis audacia delinquendi, atque in alios videatur ... maior debet ... et ... qualitas debet exprimi ... ... qui in ... ...

nº. 12 Ex quo ... ... si ... ... 1º. ubi sacerdos ... aut religio ... peccat contra Castitatem teneatur dicere se esse Sacerdotem aut religiosum. ... ex ... dicendum sufficere si ... dicat se esse sacris ordinibus, aut Voto Castitatis ... ... totam ... ... habet ... simplex ... fornicatio ... ... et ... Castitatis, Votumque solemne, et simplex solum accidentaliter differunt; Verum ... debere ... Circumstantiam, ... peccati ... et ... nihilominus ... auget notabiliter ... ... Solemnitatis, ... religionis ... ... dubio 4. nº. 18, Azor, Emanuel Rodriguez, Villalobos, Figuera, et alii ... ... et sequitur Diana p. 1. resolut. moral. tr. tracta. de Circumstantiis resolut. 4ª. Bonacina ... Sacramentis q. 4. puncto ult. nº. 29. Thomas Sanchez lib. 7. de matri. disp. 27. nº. 25. et 36. ... quid ... debeat observandi religiosos Societatis ... ...

nº. 18 ... ... varia ... apud interpretes questio est, an sponsus, vel ... de futuro, qui per Copulam Violavit fidem teneatur in Confessione Circumstantiam aperire, quam ... ... et negativa, ... media ... negativam defendit ... in 4º. dist. cap. nº. 24. ... Azor, et alii quos refert, et sequitur Diana p. tracta. de Circumstantiis resolut. 3ª. ... amplectitur Sarmiento lib. 1º. Selectorum cap. 5. nº. 30 Ledesma, Aldouinus Lopez ... ... a Diana d. resolut. 3ª. media ... Consistit in hac dist. ut si talis Circumstantia teneat ex parte feminae necessario sit Confitenda tam ab illo qui accedit ad sponsam alterius ... quam ab ipsa sponsa peccante, sed secus ex parte Viri, ... sponsi de futuro ... detegenda in Confess. ita docent Marcus Antonius lib. 5. instit. maior. lib. 10 ... Sanchez ... matrimonio disp. 2. nº. 6 Villalobos in Summa 1ª. p. tracta. 9 dubio 36 nº. 16 Bonacina de Sponsalibus q. 1. puncto 10 nº. 13. Figuera ... nº. 11. Laiman 2º. lib. 5. tracta. 10 p. 10. nº. 6. Ex quibus tribus ... ... tanquam ... placet affirmativa ... ... proponit ... ... videnda ... plura ac alia ... faciunt. =

nº. 20 3ª. et ult. questio est an qui per peccatum luxuriae Virginitatem amisit, teneatur hanc circumstantiam in Confessione aperire, et an diversa obligatio sit ... atque in Viro, in quo dubio plures ... 1ª. affirmativa Circumstantiam necessario explicandam esse tam ex parte Viri quam ex parte feminae, Cum in utroque ex hoc peccato irreparabiliter amittatur ... Virginitatis, quae tamen gravissima est, atque ideo ... peccatum gravius ... redditur ex illa Circumstantia Confitenda erit. = 2ª. ... obligationem ... huiusmodi Circumstantiae = 3ª. ... inter feminam et Virum, ita ut illa teneatur ad ... talis Circumstantiae, ille minime. = Quarta ... docet ... ... non teneatur explicare Circumstantiam ... ... feminae explicare ... Circumstantiam ... ... et Confessarius debet ... ... Diana d. tracta. de Circumstantiis resolut. ... =

Ex ...

E quibus nobis magis placet media sententia quae docet Virginem tenerj in Confessione explicare Circumstantias Virginitatis amissae, si fuerit in itinere, ratio est quia ex parte Viri talis amissio non mutat speciem peccati, quamvis inferat parentibus nec [illegible] gravem in honore, nec reddat se inhabilem ad matrimonium ac [illegible] pecati luxuriae circumstantiam notabiliter agravantem, ex parte foeminae saepius plures rationes, quae in Viro deficiunt, ex parte luxuriae in peccato stupri, ut docent Suarez disputatione 22. sectione 4. n.o 6. Bonacina de poenit.a [illegible] sectione 2.a puncto 2. [illegible] 3. n.o 7. [illegible] Thomas, Caietanus, Enriquez, Sedesma, Gutierrez et alij quos refert et sequitur Facundez [illegible] cap. 3. n.o 3. Ex quibus procedit, [illegible] habet sive a[illegible] externo, sive interno tale peccatum a foemina sit omissum, cuius gravitas, seu Circumstantias aliquam malitiam in [illegible] quod internum omittatur ut diximus et [illegible] [illegible] 1.o mor. [illegible] 2. cap. 3. [illegible] Nav. [illegible] et 6. n.o 8. dicentes [illegible] Circumstantiam a confessoribus [illegible] interrogandam esse, ne [illegible] exponantur periculo gravis mendacij, [illegible] [illegible] quamvis illi [illegible] Suarez [illegible] sectione 4. n.o 6 Bonacina de matrimonio q. 4. puncto 17. [illegible] =

n.o 16

2.a dicendum, quid, cum pertinet ad [illegible], ad quantitatem, et multitudinem [illegible] quam peccator sua adhaeserunt, [illegible] persona quae [illegible] vel [illegible] [illegible] et Sacra, Coniugata, affinis, aut Voto Castitatis adstricta, aut [illegible] [illegible] aut Clericus, aut [illegible] [illegible] pecuniae quantitas, aut rerum sacrarum, Velut Calicis, [illegible] et alias similes Circumstantias, quae aut mutant speciem peccati, aut illud notabiliter agravant [illegible] [illegible] ad quam Circumstantiam solent [illegible] reducere [illegible] peccati [illegible] tempus animo deliberato perseveravit [illegible], item intentionis [illegible] magno affectu [illegible] [illegible], nec [illegible] duplicem [illegible] eiusdem speciei, ut duplex [illegible], aut [illegible] [illegible]; occasionem ad peccandum [illegible] si foemina [illegible] se a tali deamandam ultro [illegible] exhibeat; [illegible] si ultro, et sine causa id faciat minime peccavit, quamvis [illegible] [illegible] [illegible] deamandam a talibus [illegible] qui ex sua malitia solent oes mulieres quas vident [illegible], ut docent Nav. Suarez [illegible] Bonacina et [illegible] [illegible] hanc rem late [illegible] =

n.o 17

3.a dicendum Ubi quid denotat Circumstantias loci in quo delictum fuit perpetratum, ob quam aliquando addunt malitiam diversae speciei, nempe sacrilegij, ut [illegible] delinquendo loco sacro, [illegible] [illegible] aut [illegible] humani Violentia [illegible] [illegible] propositione 4. de consecratione [illegible] Vel altaris cap. [illegible] de consecratione [illegible] cap. [illegible] 27. [illegible], item ratione scandali [illegible] peccatum fiat in publico Coram alijs, nam [illegible] habet scandali malitiam in Confessione declarandam. aliquando [illegible] loci Circumstantia auget notabiliter [illegible], ut [illegible] [illegible], quae ratione loci [illegible] [illegible] honoris, Vel alterius famam [illegible], et tunc est declaranda. = Ex quo sequitur [illegible] dici sacrilegium [illegible] quando furtum fuit factum rei sacrae ex loco, Vel rei in sacro [illegible] [illegible] custodiae causa depositae ut docent Caietanus [illegible] Opusculorum tractatu ult.o responso 12 [illegible] Soto in 4.o [illegible] q. 2. art. 4. ideoque si per accidens rem existentem [illegible] existentem [illegible], non erit sacrilegium ut tradit [illegible] 8. [illegible] 4. cap. 4. n.o 11 Lessius de iustitia [illegible] 2.o cap. 45. n.o 24. =

n.o 18

4.a dicendo Continetur in illis Verbis quibus auxilijs, quae ponitur ad denotandum Circumstantiam instrumentorum, Vel personarum quorum opera, Vel Consortio Vitiae [illegible] in delictis perpetrandis. quae Circumstantia aliquando necessario explicanda est. 1.o si delictis aliquando [illegible] instrumentis, [illegible] aut [illegible] [illegible], aut [illegible] habet [illegible]

Margin notes:

[illegible]

Respondendum dicto quid

Explicandum dictum Ubi

declarandum dictum quibus auxilijs

11.

periculo maioris quali ... ... Ut si peccasti patrauerit cum sociis, et fuisti causa ... peccati, ut ipsi etiam patrauerint, aliás non missionis quo ... confitendo est hic circumstantia ... vel causa quia dedisti ut ipsi peccarent, quia habet malitiam scandali, aut vitij contra charitatem alterius ad quod fuit inductus, aut saltem est noua malitia numero distincta, vel circa notabiliter ... ut notant Suarez de ... n. sect. 4. n. 26 Fagundez ubi ... n. 10 cum sequentibus ... difficult. ... n. 27. ubi alia circa hanc rem ... plura exempla adducentes ... videri.

Exponitur ... circumstantia. n. 19

Quinta circumstantia ... est ... quibus auxilijs, vel ... quem ... adhuc, ... circumstantia ... necessario ... est ... quia peccando ... malitiam ... mortalis ... media, ut si ... pecunias ad peccandum, vel ad ... et alia similia quae prosequuntur Nau. in ... et alij plures quos et sequitur Diana ubi ... resolut. 23. ... eodem tempore ... momenti, veluti calamum, aut aliud simile, tenetur necessario explicare in confessione ... quam calamum ... vel ... exprimere circumstantiam ... malam non expressa ... calami, quod ... habet ... malitiae ... ordinat ad finem moralis malum, ut docent Sanchez in ... Diana ubi ... n. 27 Enriquez ... cap. 6 § 4. ... malum mortaliter, malumque, sufficit medium declarare, ut ... qui tenetur ... ut docent ... Suarez Enriquez Fagundez et alij quos refert et sequitur Diana ubi ... n. 26 ...

Explicatur ... quomodo. n. 20

Sexta dictio est quomodo, quae aperte demonstrat ... modum accidentalem, quo peccatum ... et circumstantia modi ... malitia ... aggrauare. ... in ablatiuo ... quae dicunt ... furtum ... rapina ... aggrauare ... multis exemplis ... peccatur, ut si quis occidet ... et non ... homicidio ... quod ... extraordinarie circumstantiis, explicandae in confessione ... peccat, ... in morali periculo, vel facilitate peccandi ... aliquam occasionem ... explicari oportet ut confessor cognoscat an ... habere ... firmum propositum emendationis, ut docent Enriquez ... cap. 24 § 4. Fagundez ... n. 7. Diana ubi ... resolut. ... plura alia exempla ... Suarez de ... sect. 4 n. ... Sanchez in summa ... cap. ... n. 27. Nau. ... cap. ... n. 64 et alij quos refert ... Diana ubi ... resolut. 4.

... quando. n. 21

Septima et ultima dictio est quando, quae ... soletur explicanda circumstantia temporis, an confitenda sit ... mutat speciem peccati, ... ter auget, ... opinionis. ... in die festo ... vel adulterium ... circumstantia ... peccatum ... malitiam quae mutet speciem, nec circumstantia quae grauet notabiliter, ... tantummodo in die festo ... et sic ... aliud peccatum, ... Nec obstat quod dies festus sit destinatus diuino cultui ... est ... finis praecepti, quia ... finis praecepti ... et ... atque ideo cum proximus ... finis talis praecepti sit ... audiamus sacrum ... ut docent Nau. in Manual. ... n. 9 Suarez ubi ... n. 11. Enriquez ... cap. 6 § 6 ...

[illegible] in [illegible], vel [illegible], vel alterius [illegible] [illegible] vel scandalis oriatur, docent [illegible] in Cardeliccibus [illegible] de Confessione et de Circumstantiis [illegible]. Ledesma, [illegible] Vasquez, Fagundez et aliis plures quos refert et sequitur [illegible] resolut. 32. Cum seqq.

Resolutio. Quod dubitari solet, an si uno die [illegible] duplex festum, [illegible] [illegible] seruiles, [illegible] illo die opus seruile faciat, aut audiat missam, [illegible] debeat necessario illas circumstantias in confessione manifestare. [illegible] Variis sunt opiniones [illegible] [illegible] magis placet. [illegible] obligationes sunt diversas [illegible] [illegible] [illegible] [illegible] aliud [illegible] facere [illegible] [illegible] [illegible], sed [illegible] [illegible] [illegible] duo peccata, [illegible] temperantiae [illegible] [illegible], alterum [illegible] [illegible] [illegible] [illegible] obligationes sunt [illegible], duo [illegible] peccata, [illegible] [illegible] [illegible], nec [illegible] [illegible] [illegible] [illegible] regula [illegible] [illegible] [illegible] malitia [illegible] [illegible] [illegible] [illegible] 4. n. 22. Sanchez lib. 3. de matrimonio disp. 15. n. 9. Vasquez [illegible] 4. [illegible] [illegible] n. 9. [illegible] [illegible] n. 4. [illegible] lib. 1. tract. 2. cap. 10. n. 4. = Sed an [illegible] circumstantiae [illegible] [illegible] diversas malitias peccati, [illegible] [illegible] [illegible] [illegible] necessario confitendas [illegible] dubitari solet; [illegible] [illegible] necessario confitendas, [illegible] nullas aggravat, [illegible] [illegible] confessarius [illegible] [illegible] Fagundez [illegible] quos refert et sequitur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] de circumstantiis.

= [illegible] peccatorum =

Articulus II. de ministro sacramenti poenitentiae ad exponendum [illegible] [illegible] [illegible] [illegible] de poenitentia.

Ministri poenitentiae deputandi

Resolutio 1. Huius sacramenti [illegible] [illegible] necessarius minister est solus sacerdos, quod tanquam de fide [illegible] [illegible] [illegible] [illegible] [illegible] Florentino sub Eugenio 4. in [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de poenitentia [illegible] [illegible] [illegible] [illegible] [illegible] de poenitentia [illegible] [illegible] [illegible] [illegible] [illegible] tradit [illegible] lib. 3. de poenitentia cap. 6. [illegible] [illegible] [illegible] [illegible] dub. [illegible] [illegible] lib. 5. de poenitentia tract. 6. cap. 10. Fagundez [illegible] [illegible] [illegible] lib. 7. cap. 1. Ochagavia tract. 2. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacerdos, [illegible], [illegible], aliis [illegible] quos refert [illegible] [illegible] [illegible] [illegible] [illegible]. Cum [illegible] [illegible], [illegible] claves [illegible] necessario ad absoluendum [illegible] in Caradbera [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], ac sacerdotibus, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Spiritus [illegible] [illegible] Trid. [illegible] cap. 6. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] doctrinas [illegible] [illegible] [illegible] [illegible] sacerdotes claves [illegible] [illegible] [illegible] [illegible] [illegible] sacerdos habeat potestatem ordinariam, [illegible] delegatam [illegible] [illegible] [illegible] [illegible] 4. [illegible] [illegible] [illegible] [illegible] Thomas [illegible] [illegible] 3. [illegible] [illegible] 4. [illegible] seqq. =

Cui possit fieri sacramentalis confessio.

Resolutio 2. Ex quo sequitur confessio sacramentalis nullatenus [illegible] sacerdoti fieri [illegible], vel si laico fiat sacramentalis [illegible] [illegible] [illegible] in extrema necessitate [illegible], [illegible] confiteri laico [illegible] [illegible] [illegible] [illegible] [illegible] confessio, ut si deest sacerdos, [illegible] [illegible] [illegible] sacramentalis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacerdoti [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in 4. [illegible] 17. [illegible] in gravi periculo [illegible] [illegible] [illegible] consilio alicuius laici prudentis, ac sapientis, [illegible] opera [illegible] peccato, aut obligatione [illegible] liberari ut notant [illegible] [illegible] [illegible] dub. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Quo

[illegible] quos ferem accipi debet ad [illegible] Constantiense, [illegible]: [illegible] quae damnantur Haereses

[illegible] Quod quilibet ultra Contritionem Cordis habet [illegible] sacerdotis [illegible], [illegible] sacerdoti [illegible] salutis tenetur confiteri; et aliqui, ut habetur quacumque bonis, [illegible], nec debet [illegible] a Contrario senu [illegible] ubi habita Copia [illegible] [illegible] Requiritur absolvendi, [illegible] fuisset et [illegible] Tridentini sess. 14 [illegible] [illegible] Fagundez [illegible] 7. cap. [illegible] n° 6. et 9. [illegible] [illegible] [illegible] q. 33. [illegible] per totum. =

n° 3

Huic doctrinae opponi videtur [illegible], et [illegible] defunctis, ubi statuitur pro fidelibus, et [illegible] in flagranti delicto [illegible], [illegible] in morte Confessi fuerint presbytero, vel diacono, non illis [illegible] esse, in quo videtur quod sicut presbyter ita et Diaconus potestatem habeat confitendi, [illegible] [illegible] ministerio sacro [illegible], quam [illegible] Diaconus. hanc difficultatem ut dissolvant scriptores [illegible], ut [illegible] ex [illegible] Antonius Augustinus in [illegible] Collectione Decretalium [illegible] [illegible] illis in Omissis, et [illegible] quam tradit [illegible] [illegible] asserit in extremis licere [illegible] Laicos, verum [illegible] putamus illa verba, presbytero, aut Diacono confessi fuerint significare [illegible] ante quam moriantur signum [illegible] dederint, coram presbytero, vel Diacono, [illegible] fides sicut maior auctoritate, [illegible] [illegible], [illegible] [illegible] de communione Ecclesiastica [illegible] [illegible] et [illegible] [illegible] [illegible] receptum [illegible] [illegible] cap. 12, [illegible] [illegible] cap. [illegible] de [illegible] [illegible] cap. [illegible] presbyter, et Diaconus [illegible] [illegible] sacramentali recipientes, [illegible] [illegible] [illegible] Volunt [illegible] [illegible] in [illegible] in sepultura, in orationibus, atque oblationibus, [illegible] absque signo [illegible] in [illegible] Crimine occiso utpote in manifesto peccato mortali [illegible] [illegible] Constat. =

n° 4

Similiter obstare videtur Cypriani auctoritas [illegible] 8. epistolarum [illegible] 10, et 17. ad presbyteros, et Diaconos missis, ubi [illegible] de fidelibus [illegible] qui in infirmitatis [illegible] occupati fuerint, [illegible] proponit, [illegible] [illegible], cum apud presbyterum [illegible] praesentes, vel si presbyter repertus non fuerit, et urgere exitus [illegible] apud Diaconum quoque [illegible] facere delictorum posset. ex quibus [illegible] videtur [illegible] [illegible] Diaconis, [illegible] [illegible] nomine dicatur [illegible] ut Constat ex cap. [illegible] 5. [illegible] q. 4. et nos late diximus in [illegible] [illegible] [illegible] asserimus [illegible] [illegible] difficultas [illegible], [illegible] dicamus [illegible] debere intelligi de Confessione [illegible] nec de [illegible], nec de absolutione [illegible], nec de liberatione [illegible] [illegible], ut [illegible] [illegible], [illegible] illa sacramentali [illegible] apud Diaconum fieri non [illegible] debet intelligi de reconciliatione [illegible] solemnis [illegible] certis diebus fiebat, vel [illegible] Licentia interveniente presbytero, vel Diacono [illegible], ut [illegible] [illegible] [illegible] Cardinalis [illegible] de Mendoza [illegible] [illegible] Illiberitano lib. 2. cap. 65 [illegible]

n° 5

Eidem doctrinae opponi solent [illegible] in novo [illegible], et [illegible] Matthaei [illegible] capite 18. [illegible] tibi dabo Claves regni Caelorum, [illegible] [illegible] ex quibus Constat [illegible] et absolvendi a Christo Domino Divo Petro, et aliis Apostolis [illegible] [illegible], et Certissimum est potestatem illam [illegible] [illegible] [illegible], hoc est antequam fuissent [illegible], [illegible] Apostoli tamquam [illegible] a Christo [illegible] sacerdotes [illegible] Ordinati, ut [illegible] [illegible] [illegible], [illegible] hoc fecerit, [illegible], [illegible] sacerdotes [illegible] laici possint ministri [illegible] [illegible]. Huic difficultati facile occurritur, [illegible] dicamus [illegible] potestatem duplicem, ordinis, [illegible] iurisdictionis, [illegible] eandem potestatem Divo Petro [illegible] non fuit data, sed tantum [illegible], [illegible] ubi illa [illegible] dabo Claves [illegible]

Ex his dicitur Audientiam [illegible] Clavis petere ex cap. [illegible] quitur 16, 24 q. 4. [illegible] illis sunt [illegible] dicto assig-
natam in foro exteriori, et hoc modo intelligendo post authoritates, atque potestas Clavium ligandi, et absolven-
di in foro interno post quam Apostolis suscitavit à mortuis, fuit Petro, Apostolis, et eorum successoribus
Collata, et illud Joannis cap. 20 ibi, accipite Spiritum Sanctum &c.a, deinde plena potestas jurisdictionis
in utroque foro fuit dictis concessa, ex Domini [illegible] velare in cap. Ult. Joannis ibi pasce oves meas
&c. tradunt ita Soto in 4.o d. 18 q. 4. art. 1.o ad 3.um Suarez, Fagundez, et alij communiter. =

n.o 6

Sine Venit investigandus an Simplex Sacerdos possit esse minis-
ter huius Sacram.ti, an vero requiratur ut sit proprius parochus, vel saltem sacerdos jurisdictionem ordinariam
Vel delegatam desideretur. Quamvis dicimus Simplici Sacerdoti regulariter non esse ministrum huius
mi Sacram.ti, quia non sufficiat Ordinis potestas, sed etiam desideretur simul cum ea, Ordinaria
Vel delegata jurisdictio ex Trid. sess. 14 cap. 6. ibi nullius momenti absolutionem eam debere, quam
Sacerdos in illum profert in quo ordinariam, vel subdelegatam non habet jurisdictionem, ratio est, quia licet
jure divino Cuilibet Sacerdoti Clavium potestas fuerit concessa, tamen quia facultas exercendi illas
deficiat, dum deficit approbatio, aut obtentio parochialis beneficii, aut jurisdictio delegata, necessario
simplici Sacerdoti prohibetur ut minister sit huius Sacram.ti, ut quae fideles confessiones audiat, ut docet
D. Thomas in 4.o d. 17. q. 2.a art. 3. Cobb. [illegible] Van. cap. 10 n.o 11. Facit in hunc doctrinam
confirmatio quod audire confessiones, et à peccatis absolvere est actus jurisdictionis, cap. audientiam [illegible]
24. q. 1. cap. poenitentes [illegible] 32. de poenit. d. 3.a quia Confessio [illegible] judicium formatur coram
sive judice, et jurisdictione Confitere non potest, quod qui illam non habet talis minister esse non potest, ideo quae
absolutio ab eo facta non tenet ad similitudinem sententiae quae à non suo judice lata nulla est. [illegible]
non Competenti judice. =

n.o 7

Verum haec doctrina quatenus ex supra colligitur, jurisdictionem necesse esse ad absolutionem
concedendam, nulla obstare videtur, et in primis, difficultas [illegible] quod nemo [illegible]
[illegible], nec habitualiter habet potestatem, nec minus cap. Cuncta per mundum 9. q. 3. cap. [illegible]
Concessit. [illegible] cap. 1. de Constitut. in 6. sed Romanus Pontifex quotidie absolvitur à simplici
Sacerdote, ut de per se patet, et tradit [illegible] cap. sive unde off.o et potestate judicis [illegible]
[illegible], ergo jurisdictio ad remittenda peccata non est necessaria, quilibet Simplex Sacerdos
potest esse minister Sacram.ti poenitentiae usque propositum. = Pro hac difficultate dissolvenda quae
valde gravis est, plura concurrunt in illud ex [illegible] ut constat ex his quae tradit Navarrus in cap.
placuit n.o 15. de poenit. d. 6. illis [illegible] magis placet dicere quod licet immediate à Romano Pontifice
dimanet Ecclesiastica potestas, tamen quia non potuit illam exercere ut ipse met absolvatur, quia nemo
in sua causa potest esse judex L. penult. ff. de receptis arbitris, licuit ut delegatus possit
mediate jurisdictionem illam alium Sacerdoti concedere, ut ab ipso absolvatur, ut docet [illegible] in summa [illegible].
de poenit. cap. 8. n.o 3. et 4. = Nec quidquam obstat dicere quod is cui mandata jurisdictio
habet nihil proprii retinet, siquidem tamen utitur jurisdictione illius qui mandavit L. 1. § quia
autem ff. de Off. [illegible] Cui mandata est jurisdictio, quia non est [illegible] Sacerdos possit absolvere
Summum [illegible] ubi potestatis quam suscepit in ordinatione interveniente [illegible] Pontificis [illegible]
in hoc casu Sacerdoti subjiceretur, et tunc delegat jurisdictionem confessario [illegible] electo, [illegible]
Soto in 4.o d. 18 q. 4. art. 5. [illegible] =

n.o 8

[illegible] difficultas major [illegible] ex decretis [illegible] cap. [illegible] de poenit.
et remiss. in cap. 1. de poenit. d. 6. in quibus [illegible] datur facultas poenitenti ut possit eligere
Sacerdotes magis peritos, et idoneos in Confessarios, quibus dictis [illegible] Confessarius [illegible] facultas
habere. Haec difficultas [illegible] ubi [illegible] interpretat aliqui [illegible] cap. [illegible]
[illegible] intelligenda, et adaptanda ad tempus [illegible] in quo fuerat facta [illegible]
parochiarum, [illegible] ut [illegible] quasi illius proprii parochi habens potestatem, [illegible]
Verum [illegible] dariebatur [illegible] in [illegible] expressum. [illegible]
[illegible] parocho, [illegible] alius idoneus eligendi, [illegible] Confessio, [illegible]

[illegible] Ordinarius, ... [illegible] ... si parochialem [illegible] habeant [illegible]
fuerit ad hoc [illegible] ... si Ordinarius vel delegatus [illegible] habeant [illegible]
[illegible] cap. [illegible] ... in Bulla [illegible] ... [illegible]
[illegible] ... [illegible]
[illegible] ... [illegible] =

n.° 9 [illegible] ... ex [illegible] ...
[illegible] quilibet sacerdos [illegible] ... in cap. [illegible] de [illegible] ...
[illegible] de sacrato [illegible] n.° 85 ... [illegible] ...
[illegible] ... [illegible]
[illegible] ... [illegible]
[illegible] ... [illegible]
[illegible] ... ad [illegible] quilibet [illegible] ... Ordinarius
[illegible] ... Ordinaria [illegible] ...
[illegible] ... cap. 7. [illegible] 10. [illegible]
[illegible] ut Confessio [illegible] ...
[illegible] ... [illegible]
[illegible] Barbosa in Collect. ad [illegible] in cap. [illegible] =

n.° 10 Verum [illegible] ... habet excep.[illegible] 1.° [illegible]
[illegible] periculo [illegible] quilibet sacerdos licet non sit parochus nec alias approbatus habet [illegible]
absolvendi [illegible] in illo mortis articulo a quibuscumque peccatis gravissimis [illegible]
[illegible] ... cap. [illegible] ... de [illegible]
[illegible] cap. [illegible] 11 de [illegible] cap. [illegible] 22 ... [illegible] Cum [illegible], quia
[illegible] maior necessitas semper [illegible] ne [illegible] ut [illegible] de [illegible]
[illegible] Trid. [illegible] 14 cap. 7 [illegible], quid [illegible] debeat [illegible] absolutus [illegible]
[illegible] cap. [illegible] ... [illegible]
[illegible] = 2.° [illegible] in [illegible] Religiosis [illegible] habentibus
[illegible] confessiones audiendi [illegible] parochi licentia [illegible]
[illegible] de privilegiis [illegible] ... 14 ... 23. de [illegible]
[illegible] cap. 5. ... mendicantibus [illegible] ... revocatis [illegible]
[illegible] illo Concilio [illegible] examine [illegible] Ordinarii, [illegible] plura [illegible]
[illegible] D. Thomas in 4.° d. 19. q. [illegible] art. [illegible] ... sequitur Barbosa
[illegible] ... [illegible] =

n.° 11 [illegible] ... [illegible] Ordinarii
[illegible] delegatus [illegible] sacerdos [illegible] minister [illegible] sacri, [illegible]
[illegible] Ordinarie, [illegible] delegatus [illegible] habent [illegible]
[illegible] ... [illegible]
[illegible] ... [illegible] Matthei cap. 16 ... [illegible]
ordinarius Ordinarius dicitur, et [illegible] in cap. [illegible] ...
[illegible] ... [illegible] de [illegible]
Ordinaria [illegible] ... [illegible]
[illegible] ... [illegible] cap. [illegible] ... [illegible]
[illegible] ... [illegible]
[illegible] cap. [illegible] ... [illegible]
parochia habent hanc [illegible] Ordinariis [illegible] ...
[illegible] cap. [illegible] ... [illegible]
[illegible] ... sacerdotes [illegible] ... [illegible]

[Margin:] [illegible]

[Margin:] [illegible] Ordinariis [illegible] ... [illegible]

indebeat, nec omisse [illegible] cum sacerdote [illegible], quippe dicet respectu confessi, ius [illegible] patet sive ex defectu sacerdotis [illegible], cedo legitimus minister [illegible], ut tradit Enriquez [illegible] lib. 3. [illegible] cap. [illegible] 5. = Denique oportet quod [illegible] jurisdictio ordinaria [illegible] sacerdotis ut possit [illegible] alteri [illegible] ut [illegible]. Sacerdotes [illegible] in d. cap. [illegible] utrum [illegible] debeat [illegible]. =

n.º 12

Quid sit delegata [illegible] (margin)

Delegata autem jurisdictione [illegible] sacerdotes ex [illegible] Pp., [illegible] parochi, et tunc hujusmodi sacerd. legitimi ministri reputantur ut [illegible] in d. cap. [illegible] sexus de poenitentiis et remissionibus. [illegible] in hoc [illegible], quod Pp., vel eius delegati [illegible] approbati dicuntur legitimi ministri [illegible] delegati [illegible] approbatio [illegible], cum [illegible] Concilium [illegible] illud exercendi, aut [illegible] cap. [illegible] 5. de off. et pot. jud. c. del. [illegible] de [illegible] alias [illegible] delegatio [illegible] approbati debet esse [illegible] hoc [illegible], [illegible] parochi, nec [illegible] alterius [illegible], [illegible] ut parochus [illegible] sacerdoti [illegible] Trid. sess. 23. cap. 15. Quomodo intelligendum [illegible] difficilis in d. cap. [illegible] et quatenus in illo dicitur posse parochum alteri sacerdoti vices suas ad hoc sacrum [illegible] committere debeat intelligi de sacerdote approbato, nec sufficit quod sit doctor et peritus in sacra Theologia vel in sacris Canonibus, quia nihilominus epi approbatio debet intervenire, ut [illegible] sess. 23 cap. 15. [illegible] nullus, quod significat nullus sacerdos absque ordinarii approbatione hujus sacri ministerii [illegible] posse, tradit Enriquez [illegible] n.º 12. et post [illegible] Gutierrez [illegible] 73. cap. [illegible] n.º 9. =

n.º 13

[illegible] uno episcopatu [illegible] in altero [illegible] (margin)

Hinc deducitur sacerdotes in uno episcopatu approbatos in altero epi [illegible] non posse confessiones audire absque approbatione alterius epi in cuius dioecesi confessio fit, [illegible] dicitur in Trid. sess. 23. cap. 15. [illegible] approbatio desideratur, et quod [illegible] in dubio [illegible] sit intelligendum de proprio [illegible] Ordinario cap. 1º de off. judicis Ordinar. clem. 1ª [illegible] Trid. sess. 24 de ref. [illegible] cap. 6. [illegible]; [illegible] bulla Cruciata concedit facultatem [illegible] approbatis ab Ordinario intelligi oportet de Ordinario loci ubi [illegible] habitat, alias [illegible] magna [illegible] fieret Ordinario [illegible] loci [illegible] cap. [illegible] de off. et pot. judic. delegati, [illegible] in loco publico, sequeretur quod absurdum [illegible], [illegible] et irregulares [illegible] Crimina [illegible] ministraret. [illegible] in uno episcopatu [illegible] in alio epi [illegible] potest absolvere [illegible] tradit [illegible] Rodriguez in bulla Cruciata [illegible] 4. [illegible] 4. art. 3. [illegible] Ledesma [illegible] q. 5. art. 6. n.º 9. [illegible] cap. [illegible]

n.º 24

[illegible] ab alieno parocho [illegible] valet (margin)

Infertur ex [illegible] quod [illegible] confessio [illegible] alieno parocho facta valere, [illegible] proprii parochi [illegible] ignorantia [illegible] sufficiat ad valide [illegible] confessionis ut probat [illegible] cap. placuit [illegible] de poenit. [illegible] licentia [illegible] ignorare [illegible] parochus sit, [illegible] alias [illegible] sit parochus [illegible] absque sua licentia aliquis [illegible] adire, sicut nec [illegible] facere qui duos parochos habet unus [illegible] alterius [illegible] ut tradit [illegible] dist. 27. sect. 2. n.º 24. [illegible] si [illegible] parochi vicarius [illegible] vices [illegible], [illegible] licet parochus [illegible] hujusmodi [illegible], [illegible] vices suas alteri. = [illegible] valet quod [illegible] ratihabitio [illegible] intervenerit [illegible] proprius parochus [illegible] in [illegible] parochus [illegible] valeat, [illegible] ut tradit [illegible] conferre, [illegible] ratihabitio [illegible] de futuro [illegible] confessio, [illegible] tradit [illegible] cap. 3. [illegible]

[illegible] D. Thom. disp. [illegible] 329. [illegible] privilegii [illegible] Bullæ Cruciatæ, et aliis [illegible]

n.° 15

Similiter solet dubitari an [illegible] sacerdos sæcularis vel [illegible] approbatus [illegible] absolute [illegible] quacumque [illegible] Bullæ, Jubilæi, aut similis alterius privilegii, [illegible] Thomas Sanchez [illegible] disp. 34. n. 26 [illegible] in fine [illegible] cap. 3. [illegible] disp. 8 [illegible] approbatus [illegible] ex [illegible] cap. 5. [illegible] Confessariis [illegible] disp. 23. sect. 7. [illegible] in fine [illegible] cap. 17 [illegible] Toletus in Summa lib. 3. cap. 5. n. 6 [illegible]

n.° 16

[illegible] sacerdos sæcularis vel regularis [illegible]

[illegible] lib. 3. cap. 6. n. 6. Thomas Sanchez [illegible] disp. 32 sect. 2. [illegible] Marta, Cordova, [illegible]

Articulus 12. et ultimus

de sigillo confessionis [illegible]

[illegible]

[illegible]

[illegible]

n.° 1°

[illegible] Christus [illegible] sacerdos [illegible] Confessarii [illegible] ut nec [illegible] 13 [illegible] 35 [illegible] sacerdos [illegible] disp. 36. [illegible] sacerdos [illegible] Confessi [illegible] disp. 23. sect. [illegible] cap. 34. [illegible] 4. [illegible]

[illegible]

[illegible] peccator [illegible] ... Ideo ne forte [illegible] confessarii audita occulta per peccati [illegible] revelat [illegible] quamquam peccata [illegible] facere [illegible] [illegible] innovaverit [illegible] ... [illegible]

n. 2.

Quis [illegible] [illegible] ... sigilli [illegible] ... [illegible]

n. 3.

[illegible] sacramenti [illegible] ... theologi [illegible] ... sigilli confessionis [illegible] ... servare secretum [illegible] ... Confessarii [illegible] ... revelare [illegible] ... sigilli [illegible] revelare [illegible]

n. 4.

[illegible] Cartaginensis [illegible] ... S. Carolus [illegible] ... in confessione audierat [illegible] ... sigillo [illegible] ... [illegible]

n. 5.

Hoc supposito [illegible] ... sigilli confessionis [illegible] ... sacerdos confessarius [illegible] ... [illegible]

(Left margin notes:) [illegible] ... Confessarius [illegible] ... revelare peccata [illegible] ... [illegible]

[illegible] dicta Confessionis sigilli [illegible] [illegible] peccata [illegible]

[illegible]

ad 8

§. Ille quem consiliarium consulunt ut poenitentiam securiorem afferat, tenetur praedicta peccata servare eodem sigillo quo sacerdos sacramenti minister [illegible] [illegible] ad quemcumque [illegible] [illegible] ut videre est [illegible] ut constat ex cap. [illegible] Creditor [illegible] pignoris, sed quod haec res manifestatur sacerdoti consiliario [illegible] sit, igitur tenetur servare eodem modo, quo sacerdos minister [illegible] consiliarius [illegible] sigilli [illegible] quam complementum ministri [illegible] sacerdotis [illegible] sigillo [illegible] quae fuit [illegible] Confessarius habet in confessione [illegible] sacerdoti [illegible] sigillo [illegible] sigilli tenere consiliarium [illegible] 14 [illegible]

ad 9

[illegible] doctrina duplex videtur oriri difficultas [illegible] Confessario facultatem [illegible] medio Confessionis [illegible] sigillo [illegible] Confessionis [illegible]

[illegible]

[illegible]

Fundamentum difficultatis [illegible] 2o. Casu [illegible] nostris nullo modo [illegible] [illegible], [illegible], [illegible] Confessarius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aliquis [illegible]

2a. [illegible]

n.o 10 [illegible] [illegible], [illegible] peccatum et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] Confessarius [illegible] [illegible] [illegible], vel de facultate [illegible] [illegible] [illegible] [illegible] [illegible] ad finem [illegible] [illegible] [illegible] [illegible] manet [illegible] [illegible] Confessio, [illegible] notitia [illegible] [illegible] [illegible] [illegible] Consulti [illegible] [illegible] dependenter à notitia Confessionali, [illegible] ad [illegible] [illegible] ut cujuscumque notitia [illegible] desumptae à Confessione [illegible] [illegible] arctissimo secreto [illegible].

beneficij [illegible]

n.o 11 4o. [illegible] sigillo obstringitur [illegible] à quo Confessarius petit licentiam absolvendi à peccato reservato, [illegible] notitia illa quam habet [illegible] à Confessione [illegible] ab illa quam ipse Confessarius accepit à Confessione [illegible] à poenitente, [illegible] [illegible] [illegible] obligatur tenetur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad Superiorem ad obtinendam licentiam ut absolvatur à peccato reservato, [illegible] [illegible] licentia [illegible] est ad [illegible] [illegible] [illegible] [illegible] non absolvi à peccatis reservatis sine licentia [illegible] [illegible] [illegible] [illegible] Confessarius [illegible] [illegible] [illegible] [illegible] 4. [illegible] [illegible] [illegible] [illegible] [illegible] necessaria ad [illegible] Sacramenti, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] accideret [illegible], [illegible] [illegible] sacerdos [illegible] [illegible] sacerdos sit tenetur [illegible] sigillum custodire, ad [illegible] [illegible] [illegible] [illegible], ut [illegible] [illegible] [illegible].

n.o 12 [illegible] [illegible] [illegible] [illegible] difficultas, [illegible] [illegible] recurrit [illegible] [illegible] [illegible] [illegible] [illegible] licentiam à [illegible] reservato, nulla [illegible] notitia [illegible] [illegible] [illegible] absolvendi [illegible] [illegible], [illegible] notitia [illegible] debet [illegible] [illegible] [illegible] [illegible] [illegible] servare tenetur. [illegible] [illegible] [illegible] Pater [illegible] [illegible] [illegible] 4. [illegible] inferiorem Confessarium accipere [illegible] [illegible] [illegible] notitiam, [illegible] [illegible] Confessio licitissima, est [illegible] [illegible] in ordine ad Consequendam absolutionem, ideoque licet inferiori [illegible] habeat [illegible] [illegible] ad peccatum [illegible] reservatum, habet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] examinare [illegible], [illegible] [illegible] [illegible] peccato sine licentia [illegible] [illegible] [illegible] [illegible] ut peccet debeat [illegible] [illegible] sigilli. Accedit [illegible] poenitens vel [illegible] [illegible] inferiorem Confessarium [illegible] habere [illegible] absolvendi à peccato reservato, [illegible] habet bonam fidem, et consequenter [illegible] sigilli, [illegible] tenetur [illegible] petere licentiam à Superiori, [illegible] quemadmodum [illegible] sigillo obligatur, ut superius diximus. [illegible] [illegible] [illegible] ad Superiorem debet sigillo obligari [illegible] [illegible] nulla alia [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible].

[illegible] quatenus habet

[illegible]

n. 13. 3.° ... sigillo tenetur ... [illegible] ... peccata ... [illegible] ... [illegible] ... sacerdoti, illi sigillo ... [illegible] ... manifestat ... [illegible]

n. 14. ... Confessionis ... sigillo ... Confessarius ... [illegible] ... Sacerdos ... [illegible]

... Vasquez 2. 3. q. 93. art. 4. dubio 2. ... disp. 23. n. 4. ... [illegible]

n. 15. ... sacramentali ... ad absolutionem obtinendam ... accedat ad sacerdotem ... obligatio sigilli ... [illegible] ... Confessarius ... absolutio ... [illegible] ... schedula ... [illegible]

n. 16. ... sigillo ... Confessarius ... peccata mortalia ... venialia duntaxat ... Confessarius sigillum ... [illegible]

Deppsuit[illegible]

Venialiter [illegible] peccata [illegible] sequens [illegible], et peccata mortalia [illegible] materia sigilli [illegible] in specie, vero [illegible] in genere. Venialia [illegible] confere [illegible] peccata [illegible] Venialia [illegible] exprimat [illegible] aliquod peccatum [illegible] nulla [illegible] poenitenti [illegible] [illegible] Confessarius [illegible] Venialia [illegible] Confessarius [illegible] peccata Venialia [illegible] Confessarius [illegible] post [illegible] audiat Confessionem [illegible] Venialia [illegible] singularitas [illegible] mortalia [illegible]

n.° 15.

[illegible] sigilli [illegible] Confessarius [illegible] peccata [illegible] sigilli [illegible] Confessarius [illegible] peccata [illegible] Confessarius [illegible]

n.° 19

Dei [illegible] sigillo [illegible] peccati [illegible] Confessarius [illegible] peccati [illegible] sigilli [illegible] Confessarius [illegible] peccati [illegible] sigilli [illegible] Confessarius [illegible]

n.° 20

[illegible] sigilli [illegible] Confessarius [illegible] peccata [illegible] Confessarius [illegible] sigillo [illegible]

n.° 21

[illegible] venialibus [illegible] manifestat Confessarius [illegible] sigillo [illegible]

304

negativus defendit [illegible] sacerdos [illegible] — sic Castro[illegible] [illegible] cap. [illegible]

[illegible] quae desumuntur ex eo quia [illegible] revelatur, ex [illegible] peccata [illegible]

[illegible] affirmativam tenent Valquez et [illegible] [illegible] [illegible]

[illegible] Causa, aut per [illegible] manifestationem confess. [illegible] ad declarandum [illegible]

[illegible] et [illegible] pertinent ad [illegible] confessionis, nec ad sigil[lum], sed ad secretum naturale, aut [illegible] manif[estare]

ad declarandum melius aliquod peccatum et tunc sub sigillo [illegible] [illegible] [illegible]

[illegible] et quia [illegible] apparet quod [illegible] manifestare [illegible] [illegible]

[illegible]ssionis. =

n.° 22 — [illegible] an Confessarius possit revelare publica peccata, ut homicidio publico vel [illegible] dicat, audivi peccata homicidii, [illegible] [illegible] [illegible] in qua [illegible] [illegible] confessarius manifestare publica peccata, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

manifestare [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] attendi[illegible] debet ad [illegible] [illegible] [illegible] [illegible]

audivit in confessione [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] art. 4. [illegible] [illegible] [illegible] 3. [illegible] [illegible] Thomas [illegible]

[illegible] ubi dicit [illegible] Confessarius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] confessionis, [illegible] [illegible]

[illegible] [illegible] [illegible] audivit [illegible] confess., [illegible] [illegible]

[illegible] [illegible] generetur. =

n.° 23 — [illegible] [illegible] [illegible] peccata [illegible] confess. referre [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] confessarius [illegible] peccata [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] confessarius [illegible] peccata [illegible] [illegible] confessarius [illegible] peccata [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] et consequenter [illegible]

[illegible] [illegible] [illegible] [illegible] peccata [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] cap. [illegible] 3. n.° 12. [illegible]

[illegible] [illegible] confessarius [illegible] [illegible] homicida [illegible] [illegible] vel [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] tract. 1. resolut. 3. =

n.° 24 — [illegible] [illegible] [illegible] manifestavit aliquod

[illegible] in confessione [illegible] [illegible] sub sigillo [illegible] Confessarius illud [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sigilli [illegible]

[illegible] [illegible] [illegible] ad confessionem peccati [illegible] [illegible] [illegible] declarare,

[illegible] [illegible] [illegible] peccata [illegible] confessarius

manifestare [illegible] [illegible] sub secreto naturali. [illegible]

[illegible] [illegible] [illegible] peccata [illegible] sub sigillo [illegible]

[illegible] [illegible] [illegible] [illegible] ad manifestandum peccata sub sigillo [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] debeat

[illegible] confessarius peccata [illegible] [illegible] Ledesma, Villalobos, [illegible] plures [illegible]

refert et sequitur Diana 2.ª p. tract. 4. de [illegible] resolut. [illegible] [illegible]

[illegible]

Quid in casu mortis, vel periculi — n.° 25

Ultimo ita proponi casus debet, inquirendo an liceat Confessario pro mortis vel periculi [illegible] [illegible] revelare [illegible] [illegible]. Qua in re licet nulli affirmandum [illegible] aliquibus casibus hoc licitum fore, [illegible] [illegible] [illegible], [illegible] excipit sacerdos [illegible] [illegible] [illegible] ubi Sacerdos [illegible] [illegible] [illegible] publice [illegible] peccatum [illegible] [illegible] et [illegible] [illegible] proximi [illegible], nec [illegible] aliquo scandalo, [illegible] hoc faciens, deponatur. [illegible] [illegible] Confessarius [illegible] in Confessione [illegible] [illegible] vitae suae, [illegible] [illegible] revelare [illegible] fugiendo [illegible] vel aliquid faciendo ex quo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible], aut [illegible] [illegible] [illegible] aliquantum [illegible] peccatum, docet ita [illegible] [illegible] 4.° [illegible] 3 [illegible] 9. dubio 9.° [illegible] [illegible] [illegible] 23. [illegible] 5. [illegible] [illegible] 105. Medina [illegible] de [illegible] [illegible] [illegible]. [illegible] [illegible] Sacerdotis [illegible] [illegible] 195 [illegible] [illegible] [illegible] [illegible] [illegible] hac cautela [illegible] ut petat a penitente licentiam fugiendi, vel vitandi illud periculum, quod [illegible] [illegible] [illegible] licentiam, [illegible] [illegible] Confessarius [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] sigilli [illegible] periculum [illegible], et consequenter [illegible], [illegible] [illegible] [illegible] occasionem haberent interficiendi Confessarium, [illegible] [illegible] [illegible] [illegible] [illegible] hac cautela adhibita [illegible] [illegible] [illegible] [illegible] [illegible] Confessarius hac cautela [illegible] [illegible] in periculo mortis vitare, [illegible] debet permanere. =

n.° 26

[illegible] in occulto. Ex dictis infertur resolutio ad illum Celebrem [illegible] [illegible] [illegible] [illegible] Sacerdos Confessarius tenetur vitare penitentem excommunicatum aut illi Sacramenta negare, cum [illegible] excommunicatum [illegible] ex sola Confessione notitia, [illegible] [illegible] [illegible] [illegible] [illegible] ut docet [illegible] [illegible] n.° 3 [illegible] [illegible] [illegible]. 1.° affirmat [illegible] vitandum [illegible] nullum [illegible] [illegible]. 2.° [illegible] [illegible] aut [illegible] [illegible] cooperationem [illegible] excommunicato ad malum, et tunc [illegible] vitandum, [illegible] [illegible] [illegible] est intrinsece mala, ut si petat [illegible] [illegible] Confessarium [illegible] [illegible] [illegible] [illegible] cooperationem ad malum, [illegible] [illegible] [illegible] [illegible] prohibita vitandum [illegible]. 3.° [illegible] [illegible] [illegible] docet nullatenus [illegible] penitentem [illegible] vitandum [illegible], [illegible] [illegible] [illegible] quia vel [illegible] vitat excommunicatum sequitur revelatio aliqua peccati, et [illegible] [illegible] [illegible] Confessarius [illegible] excommunicatum [illegible] sigillum, vel in sequitur revelatio, penitens tamen [illegible] [illegible] hoc faceret [illegible] [illegible] [illegible] [illegible] tradit Medina [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.° 3. [illegible]

n.° 27

Ex quo sequitur Confessarium [illegible] [illegible] et [illegible] [illegible] [illegible] deponere de auditis in Confessione [illegible], et [illegible] [illegible] [illegible], quia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] interroget, [illegible] [illegible], nec [illegible] [illegible] [illegible] ut tradit [illegible] Thomas in 4.° dist. 21. q. 3 art. 1.° [illegible] [illegible] ad 3. [illegible] plures [illegible] [illegible] sequitur [illegible] [illegible] [illegible] n.° 8., [illegible] [illegible] [illegible] [illegible] defendere [illegible] Gabriel in 4.° dist. [illegible] art. 3. dubio [illegible] [illegible] [illegible] dicere hoc [illegible] Confessarium revelare [illegible] [illegible] [illegible], [illegible] falsum et erroneum. [illegible] [illegible] [illegible] [illegible] Confessarius [illegible] [illegible] Confessarius [illegible], [illegible] [illegible], [illegible] Sacerdos [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] Confessarius [illegible] [illegible] nullo modo [illegible] [illegible], et [illegible] [illegible] [illegible] [illegible]. [illegible] debet [illegible] [illegible] [illegible] [illegible], [illegible] Confessarius [illegible] [illegible] [illegible] habeat, ut [illegible] dicam, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. =

n.° 28

Restat nunc postremo [illegible] casus, quo [illegible] [illegible] Confessarius qui sigillum [illegible] [illegible] et [illegible] [illegible] delicti correctio et punitio pertinet, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. Speculator [illegible] refert et [illegible] Maiolus [illegible] 5. de irregularitate [illegible] [illegible] [illegible] [illegible] revelantes [illegible] irregulares [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testimonium [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible], sed [illegible] [illegible] [illegible] [illegible] [illegible] 6. de [illegible] [illegible] [illegible] cap. 7.° [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Confessarium [illegible]

[illegible] ... [illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible] =

n. 29.

[illegible] autem debeat [illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible] expectat, [illegible] ... [illegible]

[illegible] ... [illegible] revelet, [illegible] ... [illegible]

[illegible] ... [illegible] 38. [illegible]

[illegible] 3. [illegible] ... 29. [illegible] ... [illegible]

[illegible] ... [illegible] et alij plures [illegible]

[illegible] ... [illegible] = et [illegible] ... [illegible]

= [illegible] ... [illegible] =

= Junij anno Domini 1655 [illegible]

= [illegible] =

Materia de legibus anno domini 1660. P. Lama

Tractatus valde utilis et necessarius de Legibus

= ad explicationem juris, et authoritatem, eius dist. 2ª. 3ª. =
= 4. et aliis ss. Decreti a Gratiano compositi =
= distinctionibus continentur =

Antiloquium.

Tractatus de legibus hoc anno illustrare huius Decreti Cathedrae moderatori materia Gratiani demum imperat, nobilissimi ac amantissimi auditores. illa continetur in prioribus Gratiani distinctionibus, estque in emendata, famaque multa, amplissima, dificilis et ita ut expectet ad jurisprudentiam, et Theologiam, diverso tamen modo, teste Illmo. Archiepiscopo [illegible] Fr. D. Fr. de Faria in sua Catena morali tomo 1º. tit. 4. q. 1. art. 1. n. 1. et quidem recte, nam cum natura per primorum parentum peccata sit corrupta, et potius proclives homines ad malum, quam ad bonum, necessariae fuerunt leges, ut metu poenae illud homines faciant, quod Dei praecepto debent, textus in cap. ut Clericorum 13. de Vita et honest. Cleric. praecipue cum de ea multis, et grandibus controversiis extent, quae nedum ad normam sacris canonibus degestis, et Sacrae Rotae decisionibus corroboratis, et Principum Superiorum decreta revocentur, quo de definiri non possit, ut fere omnes scriptores hanc provinciam agredientes passim fatentur. Nos vero recte, et utiliter rem hanc illustraturos arbitramur, si illarum denominationem, diffinitionem, divisionem, essentiam, naturam, et potestatem per articulos exposuerimus; in quibus explicandis diligentem operam praestare policemur. itaque Deo auspice ordiamur.

Articulus 1.us De nomine, ac ethimologia legis, juris que definitione et requisitis ad legem constituendam

= in cap. 3º. et 4º. hac in dist. =

n. 1

de juris denominatione =

Non nulli ex antecessoribus nostris in hoc tractatu plura cumularunt circa juris denominationem, et quamvis diversis respectibus varias soleat habere significationes, illud tantum animadvertimus, esse nomen generale, regulariter que dici quod justum est, cap. 2. hac 1. dist. quippe jus a justitia appellari Ulpianus ut docet in l. 1. ff. de just. et iure, quod in ad nominis originem, analogiam, nec artem referendum est, sed ad essentiam rei, id est ipsummet justum, quod est fons omnis boni, et semper quaeditatur, et producitur quod aequum, et iustum est ut testatur Cicero lib. 3. de republ. dum dicit jus de justitiae fonte manare, et tradunt Divus Augus. lib. 19. de civit. Dei cap. 27. Molina t. 1º. de just. disp. 2ª circa princ. Donelus lib. 1º. comment. cap. 4. ubi cum aliis pluribus Velasquez litt. A. =

n. 2

intelligitur textus in l. penult. ff. de just. et jure.

Nec obstat probatur ex l. penult. ff. de iust. et iure in hisce praeter quoquemodo reddere dicitur etiam cum inique decernit, quibus proponi videatur jus dici quod iniquum est quando praedicta verba sunt referenda ad sententiam judicis, vel eius decretum quod semper a(?) aequum et ut expresse praedictis colligitur, immo, nec adeo quod justa faciet dum inique decernit cap. cum causam 18. de rescriptis, nam iudex dictus est quasi jus dicens populo, sive quod deinde disceptet, jure autem disceptare est juste iudicare, ideo non est iudex, si in illo non est justitia textus in cap. ... 23. q. 2. et potius ad id quod tenetur facere convenit, ut in lege sua expressum, quod ipse tamen quod faciendum est

quam q^d fieri debeat expectare oportet l. [illegible] licet 12. ff. de off. pr[a]esidis [illegible]

Propter h[oc] fact[is] legibus oportet [illegible] ne queat [illegible] derogare l. 1.^a ff. de [illegible]

tam [illegible] expre[ss]ionis [illegible] constitutionis, quamvis [illegible] [illegible], Valida quidem

erit, et pro Veritate habebitur l. penult.^a ff. de statu hominum [illegible] Magistratus authori[tas]

[illegible] prolo[quentes] l. si expressim 19. ff. de appellat. l. 1. §. item Cum [illegible] ff. [illegible]

appellat. [illegible] l. 2. C. q^d provocare [non] necesse, quam inde l. penult.^a ex allui[s]

[illegible] reditur, [illegible] significetur nom[en], ut animadvertit Dom. [illegible] d. tt. [illegible]

n.º 3.

Hoc tanquam [illegible] et Valde nec[essari]o [illegible]

aliqua de [illegible] legis, [illegible], adnotare expedit. dicitur autem [illegible]

bi, et publice proponi solet ut ab omnibus legatur, teste D.^o Isidoro in cap.^e 3.º et 4. [illegible]

ab eligendo teste D.^o Aug.^o in lib. [illegible] q.^e 15. [illegible] prudenti [illegible], Vel

[illegible] docente Angelico preceptore D.^o Thoma 1.^a 2.^e q.^e 90 art. 1.º [illegible] lex obligat [illegible]

[illegible], [illegible] [illegible] Vetat [illegible] illud Hieremi[ae] cap. [illegible] [illegible]

Vincula mea, [illegible] Vinculis [illegible] [illegible] obligamur, [illegible]

[illegible] Vel alijs [illegible] designatur [illegible] [illegible] [illegible]

[illegible] tradit [illegible] tract. de legibus lib. [illegible] cap. 5. n.º 6. Salas [illegible], tract. [illegible]

[illegible] n.º 32. Archiepus [illegible] n.º 2.º Bonacina [illegible] tract. [illegible] et alij

quos refert et sequitur [illegible] in Collect. ad Decret. [illegible] 1.^a n.º 1.º [illegible] Barbosa, et alij

[illegible] Morla in Emporio Juris lib. 1.º de legibus [illegible] 7.º ubi [illegible] et quemlibet autho[rem]

hanc rem eleganter pertractantes refert. =

n.º 4.

Itaque Legis iam descripti definitiones Varij invenit [illegible]

et apud [illegible], et DD. [illegible], [illegible] ut [illegible] lex [illegible] cap. [illegible] 4.

[illegible] q.^e 4. l. 1.^a [illegible] 2. ff. de legibus [illegible] lex est [illegible], [illegible] et ex Cicerone [illegible]

et alijs recensent [illegible] lib. 1. q.^e [illegible] art. 1.º Didacus [illegible] in proemio legum [illegible]

menti q.^e 4. [illegible] de [illegible] lib. 2. cap. 1.º n.º 6. Covarr. [illegible] cap. 8.

[illegible] tract. de legibus disp. 7. puncto 2.º [illegible] in Clavi regia lib. 3. de legibus [illegible]

Suarez, Salas, et Bonacina [illegible] citatis, et Christophorus [illegible] in tract. de leg[ibus]

Controversia [illegible]. [illegible] istas definitiones [illegible] declarant, [illegible] alij [illegible]

[illegible], respiciant, [illegible] tendant, [illegible], [illegible] leges, [illegible]

[illegible], displicent, [illegible] magis placet, quam Angelicus Preceptor D. Thom[as]

proponit 1.^a 2.^e q.^e 90 art. 4. qui sic se habet, lex est quaedam ordinatio rationis ad bonum commun[e]

ab eo qui curam communitatis habet promulgata. hanc definitionem plures ex Theologis, et Juris [illegible]

amplectuntur, et inter eos Archiepus [illegible] citato n.º 3. et [illegible]

[illegible] exponentes. =

n.º 5

Apponuntur [illegible] in [illegible] definitione 1.º illa Vox Ordinatio [illegible]

[illegible], et denotant [illegible] directe, seu recte, [illegible] recta ra[tio]

[illegible] recte agendi, regulis [illegible] humanorum actuum praescribere practice [illegible]

[illegible] ad [illegible] intellectus [illegible] Voluntatis actus antecedere, [illegible]

[illegible] legislator precipit q^d fieri Vult, [illegible] l. 1.^a ff. de constit. princip[um]

[illegible] 19 ff. de legibus, §. [illegible] principi placuit inst. de [illegible]. In cuius re[i] [illegible]

illud q^d psalmo [illegible] in [illegible] libri scriptum est de me, ut facerem Voluntatem tuam,

[illegible] cap. 1[illegible] Deus [illegible] Vobis [illegible] Voluntatis [illegible] lex [illegible] essentiali[ter]

actus Voluntatis, sed potius ille actus rationis practice ut docent [illegible] art. 4. [illegible]

Aug. [illegible] lib. 1.º de libero arbitrio, et [illegible] ad D. Thom[ae] d.^a q.^e 90 art. 1. [illegible]

[illegible] q^d [illegible] si sciremus Voluntatem superioris [illegible] [illegible] obligamur, [illegible]

[illegible] [illegible] [illegible] permittere [illegible], et Vetare [illegible] legis [illegible]

[illegible] cap. [illegible] 4. [illegible] rationes [illegible] [illegible] sciant [illegible]

Velle nisi accedat [illegible] Voluntatis et obligandi intentio [illegible] ut docen[t]

De leg[is] nom[ine].

Definitio legis a D. Thom[a] proposita, refertur et probatur.

Villalobos in summa [illegible] Morla, 2.º disp. 1. n.º 2. Toletus in summa lib. 8 [illegible], Azor 1.^a p. inst. moral. lib. 5. c.^e 5. [illegible]

[illegible] ex[pli]c[ant]ur [illegible] legis qualitates proprietatesque explicat.

1.^a Vox definitionis [illegible].

[illegible] Moxa [illegible] in [illegible] et [illegible] art. 4° [illegible]

[illegible] Symboliz [illegible]

n° 6 — [illegible] ad com. [illegible] lex 2. 4. [illegible] notat [illegible] a Leges [illegible] [illegible] ut in bonum totius civitatis, quippe [illegible] sicut ad proxime, vel remote bonum [illegible] Suarez [illegible] Laiman lib. 1°. tract. 4° de legib. cap. 1°. n° 5. =

n° 7 — Sin autem consuleret privatis, alicuius utilitati tantum et non communi redundaret, nec in publicum commodum resultare posset, iam non lex, sed privilegium, quamvis diceretur lex, quia privato fertur, cap. privilegia 3. d. 3., vel potius privata lex, hoc est, eximens privatas personas ab obligatione legis [illegible] ita intelligendus l. singularis [illegible] ff. de legibus, ubi [illegible] ius singulare est, quod contra tenorem rationis propter aliquam utilitatem aut communis constitutionem introductum est, vel quod authoritate singularis personae [illegible] concessum, ubi glossa contra tenorem rationis accipiendum [illegible] personalis, [illegible] lex in communi lata fuerat, ut [illegible] Gotofredus. = [illegible] vel ordinatio solum respiciat proprium commodum [illegible] nihil respiciens [illegible] communis, videatur habere speciem tyrannidis, ut significatur in illo [illegible] cap. 4. [illegible] de pastoribus qui [illegible] docet D. Thomas lib. 1°. de regimine Principum [illegible] quo [illegible] Concilii Toletani [illegible] caput 2° [illegible] Reges [illegible] se in respectivorum [illegible] commoda, sed consulturos bono communi, Patriae [illegible] Archiepiscopus [illegible] n° 5. [illegible] 1. [illegible] 5. [illegible] =

n° 8 — Ex his aperta iam dignoscitur [illegible] privilegium [illegible] differentia et convenientia. 1° differunt in eo quod privilegium non respicit bonum commune sicut lex ut immediate n° 7. 2° in eo quod non imponit necessitatem agendi, sed solum concedit libertatem, [illegible] 3° [illegible] communitati sicut lex, sed solum privatis personis. Conveniunt autem [illegible] quia [illegible] lex in authoritate constituentis, nam qui potest condere legem, is duntaxat valet privilegium [illegible] persona concedere, ut constat ex d. l. ius singulare ff. de legibus, et ex l. [illegible] ff. de [illegible] Principis, atque ideo in hoc [illegible] privilegia vocantur constitutiones personales, quia conceduntur ab eo qui iure [illegible] et quia personis impetrantibus minime [illegible] neque ad consequentiam trahuntur, [illegible] enim vel iura [illegible] legis [illegible] non in singulares personas sed generaliter constituuntur l. iura 8. ff. de legibus, ubi notat Antonius Faber in rationalibus, et docet Cujacius lib. 5. observat. cap. 8. ubi inter [illegible] in l. [illegible] ff. de captivis et postl. reu. et ult. ff. de delegationibus [illegible] et post [illegible] tradit Angulianus [illegible] de legib. [illegible] n. ult. =

n° 9 — Nec ex superiori doctrina [illegible] n° 6. [illegible] legis [illegible] bonum commune respicere quid quam obstat argumentum quod [illegible] videntur [illegible] leges quibus vassallis tributa indicuntur [illegible] et [illegible] communem [illegible] ad solius Principis utilitatem referri videntur, quoniam [illegible] tributa ita ad Principem spectant ut simul et in reipublicae [illegible] redundent, quandoquidem tributa et alia subsidia [illegible] Principi redduntur ut is rempublicam [illegible] atque gubernet, ut docent [illegible] de [illegible] lib. 1°. de lege [illegible] cap. 1° [illegible] Suarez lib. 1°. de legibus cap. 7. n. 1. =

Marginalia:

[illegible] (beside n° 6)

[illegible] (beside n° 6)

[illegible] quod [illegible] utili[illegible] attenditur. =

In quibus conveniunt, et differunt lex, et privilegium.

[illegible] in tempore [illegible] sed in tempore [illegible] [illegible]

Proponitur diff. [illegible] et diluitur.

[illegible] (at foot of margin)

Colligitur [illegible] plurimis [illegible] vel [illegible] n.° 9.

[illegible] hanc veram [illegible] omnes tales [illegible] obliget, [illegible] scandalo [illegible] alibi [illegible]

n.° 10

Deinde [illegible] proponunt [illegible]

a ia. [illegible] exponuntur

Communitatis [illegible] ut denotent [illegible] legem requiruntur [illegible]

[illegible]

[illegible] Thomas [illegible]

[illegible]

[illegible] Ordinationi [illegible]

[illegible] Moris [illegible]

[illegible] Salas [illegible]

Sancidit leges [illegible] eminenter [illegible] ut hominis, item habere [illegible]

regem, nec [illegible] rempublicam quae [illegible] Veneta [illegible]

[illegible] Rebuffus ad [illegible] Gallicas [illegible]

[illegible] de legibus [illegible]

n.° 11

Sed [illegible] hanc doctrinam [illegible] difficultas [illegible]

[illegible] solvitur.

[illegible] cap. consuetudo 5. [illegible] porro [illegible] ratione [illegible] constat [illegible] quod [illegible] constituit [illegible]

[illegible] probari videtur ad essentiam legis nihil aliud exposcere quam quod [illegible] jurisdictionis et potestatis [illegible] aliorum quae ad [illegible] validitatem necessariorum. = Sta[illegible]

[illegible] dissolvit [illegible] rationabilis, ratione constans [illegible]

[illegible] dici non posset illud [illegible] defendere [illegible]

[illegible] non adaptatur [illegible] denotari [illegible]

legis, sed denominatur [illegible] quam Lex necessario debet habere [illegible] lex [illegible]

publicari debet, [illegible] quomodo, et quid agendum debeat, ut scripsit Seneca epistola 37. [illegible]

Archidiaconus, et Geminianus in dicto cap. consuetudo n.° 4. et Turrecremata ibidem n.° [illegible]

n.° 12

Secunda difficultas provenit ex illo Pauli ad Romanos cap. [illegible]

[illegible] difficultas assignatur, et explicatur.

[illegible] gentes quae legem non habent, naturaliter [illegible] legis [illegible] faciunt, [illegible] legem [illegible]

ipsi sibi sunt lex, ex quibus aperte deduci videtur quod [illegible] lege [illegible]

legis vim, [illegible] obtinet, exemplum in lege honorandi parentes, et [illegible]

[illegible] potestate semper obligant [illegible] ut feratur [illegible]

publicam potestatem [illegible] legis ut talis, [illegible] Unius speciei [illegible]

Hanc difficultatem ut dissolvamus, [illegible] illud unum [illegible]

[illegible] D. Thoma art. 3. ad 1. [illegible] legem naturalem posse considerari, vel prout est in [illegible]

vel prout est in subditis, et hoc 2.° modo est [illegible] insita [illegible] hominibus, qui [illegible]

[illegible] debent, et hac ratione quatenus illam in suis mentibus [illegible] habent

unusquisque sibi ipsi lex. sicut lex [illegible] Toletanus [illegible] lex, ut [illegible]

[illegible] de [illegible] 1.° cap. [illegible] imo [illegible]

[illegible] quia [illegible] legem [illegible] gubernare, [illegible] liber [illegible]

[illegible] ideo quatenus illa [illegible] sibi ipsi lex, et habet Damascenus [illegible] 4. [illegible]

n.° 13

Tum proinde [illegible] definitionem [illegible] promulgata, [illegible]

[illegible] definitionis [illegible] explicantur.

[illegible] ut [illegible] D. Thomas [illegible] art. 4. et [illegible]

lex sit [illegible] publicari debet ut [illegible]

[illegible] Constitutiones [illegible] de legibus, [illegible]

[illegible] valere [illegible] leges [illegible]

[illegible] cap. [illegible] recte scripsit [illegible] cum promulgantur, [illegible]

Originale [illegible]

Cum autem [illegible] convenientius [illegible] subditis intimari, sed communitati fieri et manifestari, [illegible] facit [illegible] optime [illegible] [illegible] accurrit [illegible] solemniter [illegible], aut [illegible] promulgatione [illegible] notitiam singulorum ambobus per specialem [illegible], vel [illegible] intimari, [illegible] tenebitur, [illegible] legem promulgatam [illegible] [illegible] Sanchez [illegible] art. 2. [illegible] 7. [illegible] [illegible] [illegible] [illegible] ex. =

n.º 14.

[illegible] doctrina [illegible] decisio [illegible] cap. 1.º [illegible] [illegible] ex quo [illegible] ad legis [illegible] sufficit promulgatio, [illegible] necessaria [illegible] [illegible] [illegible], [illegible] [illegible] Facile [illegible] hic difficultatibus [illegible], [illegible] publicatur ex [illegible], et ex [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] effectum obligationis, [illegible] [illegible] [illegible] ignorantia, [illegible] [illegible] [illegible] [illegible] [illegible] duorum mensium [illegible] [illegible] ut [illegible] non [illegible] [illegible] tradit Cajetanus de [illegible], et [illegible] excepta quibusdam [illegible] in quibus diversum tempus assignare placuit, quod [illegible] [illegible] [illegible] [illegible] lib.º 3. cap. 5. n.º 8. [illegible] de just. lib. 1.º q. 1. art. 4. Valentia tomo 2.º disp. 7. q. 5. p. 2.º [illegible] [illegible] [illegible] [illegible] Bonacina [illegible] [illegible] puncto 4. [illegible] =

n.º 15

[illegible] [illegible] nulla interveniat: [illegible] minime peccare [illegible] [illegible] temperat legi humanae [illegible] promulgatae, [illegible] si superior intenderet obligare [illegible] [illegible] [illegible] D. Th. = [illegible] [illegible] ante duorum mensium tempus [illegible] legem promulgatam [illegible], [illegible] in conscientia ad [illegible] observantiam [illegible] [illegible] cap. 1.º [illegible] [illegible] = [illegible] [illegible] [illegible] terminos invincibiliter ignorat legem sufficienter promulgatam adhuc excusari [illegible] faciat. 4.º [illegible] duorum mensium tempus locum habere in legibus universalibus supremorum Principum, et Romanorum Pontificum, [illegible] in legibus inferiorum, ut Episcoporum, Ducum, et aliorum [illegible] [illegible] [illegible] publicatur [illegible], aut [illegible] [illegible], docent Layman in summa lib. 1.º tract. 4.º cap. 8. Salas de legibus disp. 1.ª sect. 10, [illegible] [illegible] Suarez [illegible] lib. 3. [illegible] cap. 14 [illegible]. et denique [illegible] tract. de legibus resolut. 9. [illegible], ubi alios plures [illegible] [illegible] refert hanc [illegible] disputantes, et examinantes an Pontificiae leges debeant in singulis dioecesibus publicari, et an obligent ante duos menses a publicatione =

n.º 16

Deinde [illegible] diximus ad [illegible], [illegible] legis [illegible] [illegible] alia [illegible] difficultas, quae provenit ex lege [illegible] aeterna, et lex naturalis [illegible] [illegible], et tamen nulla interveniente promulgatione obligant, ut de [illegible] patet, [illegible] [illegible] [illegible] [illegible] legislatoris [illegible] [illegible] aeternum discrimen. [illegible] difficultas [illegible] dicimus legem aeternam [illegible] [illegible] veram legem, [illegible] [illegible] [illegible] legis [illegible] [illegible] publicationem externam, [illegible] temporale, quippe licet promulgatio sit de essentia legis, [illegible] [illegible] omnibus [illegible] modo [illegible], [illegible] [illegible] Deus creaturis [illegible] promulgaverit ab aeterno, et [illegible] [illegible] [illegible] subditi; [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aeternitate, et [illegible] creaturas [illegible] habent [illegible] aut [illegible], [illegible] [illegible] sine nova [illegible] promulgatione [illegible] obligationis [illegible] a lege aeterna, per lumen naturae [illegible] illud Psalmi 4. [illegible] signatum est super nos lumen [illegible] ut [illegible] D. Thomas 1.ª 2.ª q. 91. art. 2. ad 1. [illegible] intelligunt [illegible] expositores =

n.º 17

[illegible] fere [illegible] dicimus [illegible] lege naturali dari promulgationem [illegible] Deus [illegible] hominum mentibus [illegible] naturaliter illam cognoscendam, ut [illegible] [illegible] [illegible] art. 4. ad 1. [illegible] lex [illegible] [illegible] [illegible] tanquam [illegible] [illegible] est, sed [illegible], [illegible] [illegible] lumine cognoscitur, atque ideo [illegible] [illegible]

[illegible] hominis, [illegible] quodlibet [illegible] sub [illegible] quantum [illegible] quicunque mortaliter peccat, ut docet [illegible] de [illegible]
[illegible] conueniunt [illegible] ex lege naturali, vel mediate vel immediate, quod [illegible]
[illegible] prohibet [illegible] per se lex natur. [illegible]
[illegible] vel prohibet lex [illegible]
immediate, [illegible] in lege naturali [illegible]
[illegible] ubi [illegible]

n.° 62

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] de legibus [illegible]
[illegible]

Nec hanc doctrinam [illegible] in c. [illegible] 4 de [illegible] quae
n.° [illegible] [illegible] leges [illegible] firmantur [illegible] moribus utentium approbantur [illegible]
[illegible] hoc de firmitate stabilitate [illegible] de firmitate authoritatis, ut [illegible]
[illegible] 4. [illegible]
[illegible] decisiones [illegible]
[illegible]
[illegible] cap. [illegible] n.° 32 cum pluribus [illegible]

Nec magis urget [illegible] de legibus § 1.° ff de legibus [illegible]
n.° 20 [illegible] statuitur ut leges [illegible] non tenent quamdiu [illegible] populi recepti [illegible]
[illegible] hanc doctrinam procedere in legibus Reipublicae Romanae, cuius [illegible]
[illegible] democratica fuit, [illegible] dictatoris, consulis aut [illegible]
[illegible] auctor [illegible] § et cum [illegible] ff de orig. iuris, § lex est [illegible]
[illegible] Commodiores [illegible] accipiebant leges, ut eleganter
[illegible] tradit Alexan. ab Alexan. lib. 6 dierum genialium cap. [illegible]
resolutio [illegible]

Articulus secundus de legibus
Diuinis, ad expositionem [illegible] in cap. 1 [illegible]
[illegible] cap. [illegible]

n.° 1

Quot sint leges [illegible] valde [illegible] varias, et diuersas [illegible] Gratiano tract[illegible]
[illegible] Decreti [illegible] probatas [illegible]
[illegible] distinctiones [illegible] humanum [illegible] iuris naturalis [illegible]
Isidorus [illegible] cap. 1.° eadem dist. [illegible] leges diuinae, aut humanae [illegible]
[illegible] 6. eadem dist. [illegible]
[illegible] ultimo [illegible] eodem titulo, nempe [illegible] aut naturale, aut ciuile, aut gentium. item [illegible]
1. et 2.° [illegible] tradit et exponit alias [illegible] leges, et [illegible] militare, et publica, et [illegible]
[illegible] alias [illegible] ciuile [illegible]

Variis leges diuiduntur. [illegible] ponuntur.

[illegible] 7. ff. de iust. et iure. [illegible] 1. de legib. 7 cap. 3. Valer. [illegible] [illegible] 7. [illegible] 2. [illegible] [illegible] 25 [illegible] 5. [illegible] 3. cap. 2. Azor 1. p. lib. 5. cap. 2. § 5. [illegible] [illegible] 7 et [illegible] plures alias [illegible] diuersas proueniunt [illegible] ex diuersitate [illegible] [illegible] [illegible] [illegible] diuersa nomina accepit [illegible] [illegible] =

n.° 2 Interim [illegible] [illegible] [illegible] [illegible] quadrimembrem legis diuisionem [illegible] ut sit æterna, naturalis, diuina et humana. Lex æterna dicitur ex dupli[illegible] ratione, quia nempe diuina ab æterno manet [illegible] [illegible] [illegible] ab æterno ordinatur [illegible] ad diuisionem temporalis, quia humana [illegible] [illegible] Naturalis dicitur [illegible] humanam, [illegible] [illegible] [illegible] [illegible] [illegible] naturaliter cognoscunt [illegible] faciendis, uel non faciendis [illegible] [illegible] [illegible] gentes quæ legem non habent, [illegible] naturaliter [illegible] [illegible] faciunt. Diuina quæ diuinitus [illegible] tradita, [illegible] [illegible] a Deo hominibus [illegible] sita, diuersaque [illegible] externa, et similis legibus humanis in modo [illegible], quæ diuiditur in ueterem, et nouam [illegible] Mosaicam, et Euangelicam. Denique humana lex quæ ab homini[illegible] [illegible] potestatem quam habent [illegible].=

n.° 3 Sed [illegible] legis diuisio [illegible] [illegible] [illegible], ut [illegible] membra [illegible] diuisionis cum membris [illegible], uere tamen si [illegible] [illegible] [illegible] [illegible] quorum [illegible] [illegible] [illegible] nec una [illegible] excludit, [illegible] ut [illegible] breuiter exponatur, [illegible] [illegible] Isidori doctrina [illegible] 1 [illegible] [illegible], [illegible] [illegible] leges aut diuinæ sunt, aut humanæ, diuinæ natura, humanæ moribus constant. Diuinam [illegible] [illegible] Isidorus [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] humana promulgat constitutiones, ut lex æterna, naturalis, diuina, [illegible], ideoque [illegible] in [illegible] [illegible] Isidori [illegible] [illegible], naturalis iuris appellatione intelligit quod in lege, et Euangelio continetur, id est præcepta moralia in nouo, et ueteri [illegible] contenta, ut [illegible] [illegible] [illegible] [illegible] [illegible] de legibus [illegible] n. 29. = Humanarum [illegible] [illegible] comprehendit leges omnes a legis latoribus humanis latæ, siue scripto siue moribus [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de iust. et iure, § [illegible] [illegible] [illegible] [illegible] [illegible] leges, [illegible] [illegible] [illegible]. Item et iuris canonici, ad quod reducuntur statuta, et constitutiones synodales, et alia similia. =

n.° 4 Nec [illegible] diuisio [illegible] [illegible] proponitur ab Isidoro [illegible] [illegible] [illegible] Vlpiano in l. [illegible] §. huius studij ff. de iust. et iure, [illegible] [illegible] diuidit in naturale, gentium, et ciuile, [illegible] debere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] specialiter [illegible], ut in sequenti articulo dicemus, ad illud reducitur [illegible], [illegible] [illegible] [illegible] hominum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de iustitia, et iure, at quæ ita [illegible] [illegible] [illegible] appellari conuenit [illegible] [illegible] [illegible] de rerum diuisione [illegible]. [illegible] 84. § 1. ff. de R. I. [illegible] 517 [illegible] [illegible] debere [illegible], de [illegible] [illegible] [illegible] [illegible] Duarenus ad [illegible] de iust. et iure cap. 5. Otomanus in [illegible] [illegible] n.° 9 Cornelius [illegible] cap. 6. [illegible] ab [illegible] [illegible] [illegible] [illegible] [illegible] leges, [illegible] [illegible] [illegible] [illegible] [illegible] ad diuinas [illegible], æternas et humanas ut superiorum [illegible] =

n.° 5 [illegible] [illegible] dicere [illegible] [illegible] leges, et canonicas [illegible] frustraneas [illegible] nullius momenti [illegible] sufficit lex Euangelica. Orthodoxi [illegible] illud Pauli ad Galatas cap. 5. Matthæi cap. 22, [illegible] [illegible] Dominus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in confirmat [illegible] [illegible], et frustra fiant plura quæ [illegible] fieri [illegible] [illegible] [illegible] [illegible] de [illegible] et [illegible] in donationibus [illegible] de donat. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] hominum malitiæ [illegible] [illegible] [illegible] [illegible] Plato in lib. 9. de legibus [illegible], et [illegible] [illegible] [illegible] [illegible] humanarum indiget, [illegible], [illegible] Aristoteles [illegible] [illegible] [illegible]

Margin notes:

proxime [illegible] [illegible] [illegible]

Aliud Isidori diuisio [illegible]

[illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

fuisse facere sine legibus illud quod Christianorum auctoritate Communi faciunt, Cum se

leges Canonicas necesse, quae salute reipublicae editas eo quod quotidie plures accidant

aliis legibus novis decidi. Suarez lib. 1 de legibus, plura singula quam vocabula ...

obstinendis quae eleganter tradit Mon. La Porte. lib. tt. de legibus ...

nº 6

Excludas in nulla Valde hunc, et ut explicanda Venit ... in clericis ... leges. Dominum ... eius de clericis, et de clericorum ministris, et

sacris et spiritualibus disponebant ut patet ex ... Marie de Constit. et ... ;

et in Codice tum, ... eleganter ... in l. 2 de ... vendit ... et

sequentibus, ... Ecclesiastica, ... distinctis, ... quod ... .

... circumscribantur ita ut una in alteram falcem immitteret in ... cap. ... de ...

cap. novit 13. de judiciis, cap. cum venerabilis ... filii ... cap. ... et

cap. bene quidem ... 96 dist. ideo que ... dici potest ... leges ... in ...

exercitat. Simonia, Sacris, et rebus Ecclesiasticis ... disponit, ...

... cap. ... lib. 2 ... cap. ... Suarez ... peccat ...

... de defensione Fidei lib. 3 cap. 31 ... Bellarminus ... de Romano ...

et alii plures quos refert, et sequitur Barbosa ... allegat. ... num. et sequentibus. =

nº 7

Deducitur ... Leges, ... Canonicas ... Concilii ... observandas ...

... aliis Conciliis ... sunt ... vel ...

... de accusat. cap. ... debet ... et ... debet ...

... Varietas temporum ... quando ... Variatur humana, ... urgens neces-

... vel evidens utilitas id exposcit, ... Deus ... in Veteri ...

... in novo, ... pponitur in auth. de ... Collat. 4. ...

... melius ... homini ... dicimus ... adinvenimus ...

... Concilii, ... Doctor, ... advocatus ... Con-

silium ..., ... revocare, quia sapientis est mutare Consilium, ut ...

... lib. ... Concilium ...

Consilii, ...

... in l. ... num. 55 et 56. =

nº 8

... debet ...

... maturo Consilio, et summa cum deliberatione, ...

... locum mutandi ... publicae utilitatis ...

... Ulpianus in l. ... de Constit. ... in rebus novis Constituendis evidens esse utilitas

debet ut recedatur ab eo iure quod diu ...

... alterius allegare ... fecerit ...

... Cornelius ...

Concilio allegaret legem ... bona fide id fecerit ...

... 7. ...

... legem, vel ... obligat ... habeat ...

... permanentia, ... abrogata lege, ...

...

tradit ... Gomes ... num. 41 et sequentibus. =

nº 9

... leges ... loco, et tempori, ...

... quippe ... qualibet ... qualitates ...

... debent ...

hac ... ex locorum varietate ... variari debent, ...

... locorum varietas ...

... loco, sed varia, et multiplicia ... locorum diversitates, ...

loca abundant, ... Paulus in l. ...

[illegible] mandamentum Fecerunt, [illegible] et definitioni [illegible] multiplicitem legem concinere [illegible] ut sentit Aristoteles lib. 6. ethicorum cap. 5. [illegible] Navarrus [illegible] animadvertunt Soto lib. 6. de just. [illegible] art. [illegible] lib. [illegible] cap. [illegible] n.° 4. [illegible] Pere [illegible] 2. lib. 23. [illegible] Ordinamenti Maxime [illegible] revolutionis [illegible] 2.° n.° 3. [illegible] sequentibus, et alij [illegible] quorum [illegible] Moriauxit [illegible] n.° 58.

n.° 10. — 4.° deducitur ad locutiones obligent, [illegible] permitit leges [illegible] [illegible] ad [illegible] illud [illegible] tione, [illegible] ut nominem [illegible] [illegible] [illegible] et Damas. [illegible] dicit, [illegible] et manuata [illegible] [illegible] [illegible] [illegible] [illegible] capt. n.° 10, 15. [illegible] capt. Nat. [illegible] 2.° [illegible] 4. [illegible] [illegible] [illegible] necessificat ad [illegible] ut [illegible] possibilitati [illegible] oportet ad [illegible] multo difficilius [illegible] difficilia [illegible] [illegible] solent reputari [illegible] 125. in fine [illegible] [illegible] Dui [illegible] locus capt. 23. ubi [illegible] nostri redarguent leges [illegible] [illegible] dixit, alligant onera gravia, et insortabilia, reprehendens illa [illegible] difficilia, ut explicat D. Antoninus [illegible] 3. [illegible] Mathei [illegible]

n.° 11 — 5.° infertur leges honestas esse debere, [illegible] consistit, [illegible] et [illegible] [illegible] ut [illegible] Soto lib. 1. de Just. [illegible] 5. art. 3. [illegible] articulo, [illegible] in capt. [illegible] Jud. del. [illegible] lib. 8.° cap. ult. [illegible] L. ult. [illegible] [illegible] L. 7. [illegible] ad L. Cornelij de sicarijs, et [illegible] in quibus statuitur nobiles [illegible] puniendos, quam ignobiles, et plebeios, et aut hoc procedat cum pena corporalis [illegible], quando vero pecuniaria [illegible] gravius puniri nobiles, [illegible] [illegible] et quoad Deum, ut [illegible] [illegible] capt. homo Christianus, 40. [illegible] homo Christianus fortiter cadit in peccato [illegible] [illegible] magnitudo pecca, aut [illegible] altitudo dignitatis, docent [illegible] D. Thomas 2. 2. q.e 73. n.° ult. Navarrus in capt. [illegible] deputat [illegible] n.° 49. [illegible] lib. 2. Var. revolutionis capt. 9. n.° 3.° [illegible] in speculo [illegible] n.° 75. et alij plures, quos refert, et sequitur Moriauxit [illegible]

n.° 12 — Denique deducitur leges justas esse debere [illegible] [illegible] lex [illegible] [illegible] [illegible] [illegible], ut tradit D. Thomas 1.a 2.æ q.e 96. art. 4. animadvertens [illegible] ex defectu potestatis, vel ex defectu finis, et ex defectu formæ debitæ, [illegible] in numero [illegible] proponit legem humanam [illegible] de actibus hominis [illegible] aliquid [illegible], [illegible] internos, qui latent intra cordis arcana, et latebras, humana lex [illegible] nullus potestatem habet, ita docent Caietanus 2.a 2.æ q.e 11. art.° 3. Alphonsus de Castro lib. 1. de pot. leg. [illegible] capitulo Simancas de Catholicis Instit. lib. 42. n.° 3. et alij plures quos refert et sequitur Moriauxit [illegible] n.° 50

= D. Borges de [illegible] [illegible] n.° 40 [illegible] =

= [illegible] dicta sufficiant =

= de [illegible] 2.° articulo. =

Articulus 8.° De potestate condendi leges

= [illegible] cap. 1.° [illegible] =

= [illegible] =

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] rei in hominibus [illegible] ad Collectivi, ut [illegible] [illegible] [illegible], et [illegible]

Marginalia: [illegible]; S. Matheo; Doctor: [illegible]; [illegible] tamquam injustis

[illegible]

n.° 2

[illegible] Deo [illegible] Deo [illegible]

... in formatione [illegible] [illegible] [illegible] illud [illegible] ... [illegible] homines [illegible] illud ad Romanos cap. 13. non est [illegible] ... resistit, Dei ordinationi resistit. [illegible] potestati legis ... aliquid [illegible] quae solum potest a Deo, [illegible] ... ad vindictam malefactorum [illegible] ... ad necem [illegible] solus Deus [illegible] dominus vitae, [illegible] ... hanc potestatem, [illegible] ... [illegible] Deo [illegible] illud ad Roman. [illegible] mihi vindictam, et ego retribuam dicit Dominus, [illegible] ... [illegible] D. Thom. 2. 2. q. 40 art. 3. Caietanus t. 1. opusculorum tract. 2. de [illegible] Papae [illegible] cap. 10 Soto lib. 4. de just. [illegible] Victoria in relect. de potestate [illegible] ... Suarez [illegible] ...

n.° 3

[illegible] determinatio gubernationis hominum [illegible] pendet, non enim communitas hominum unum vel aliud modum regiminis [illegible] ... [illegible] politica reipublicae gubernatio, nempe monarchia idest per unum [illegible], aristocratia idest per paucos [illegible], democratia idest per plures [illegible] ut post Platonem, Aristotelem, et alios [illegible] ... Suarez [illegible] lib. 3. cap. 4. ... [illegible] monarchia [illegible] melior et perfectior reipublicae administratio [illegible] judicatur, nam sicut in [illegible] in familia unus [illegible], in universo unus Deus, sic [illegible] ... [illegible] Tacitus lib. 1. annalium, [illegible] D. Hieronymus [illegible] cap. [illegible] ... [illegible] Molina t. 1. de just. [illegible] ... cap. 2. et lib. 11. cap. 1. [illegible] in summa lib. 2 [illegible] cap. [illegible] 3. Nicolaus [illegible] [illegible] hierarchia lib. 1 cap. [illegible]. Bellarminus de summo Pontifice lib. 1. cap. [illegible] ... [illegible] lib. 3. cap. 2. et 3. Petrus Greg. [illegible] lib. 5. cap. 3. et 4. [illegible] Melchior de Valencia [illegible] cap. 5. n.° 5. [illegible] Joannes [illegible] lib. 2 cap. 4. n.° 58. et 59.

n.° 4

[illegible] modus gubernandi melior et perfectior sit, ut [illegible] ... [illegible] experientia ... [illegible] gubernationis specialis [illegible] ... [illegible] ff. de Origine Juris, ex quo resultat [illegible] ... in republica [illegible] monarchia, potestas [illegible] sit penes unum Regem, vel Imperatorem, vel quo alio nomine vocatur, in aristocratica gubernatione penes optimates, et denique in democratia penes [illegible] ... [illegible] ff. de Origine Juris [illegible] 3. et 4. ... [illegible] Reges, et Principes [illegible] ... [illegible] populus Romanus [illegible] ff. de constitutionibus Principum, [illegible] ... [illegible] majestatis [illegible] ...

[illegible] administratio [illegible] gubernationis [illegible]

[illegible] denique unus [illegible] ... [illegible] Archiep. Valentinus D. Martinus Lopez de Hontiveros [illegible] de legibus [illegible] 7

Quilibet [illegible] gubernationis [illegible]

[illegible] expeditur [illegible] [illegible] cap. 6. n. 13. [illegible]
[illegible] cap. 6. n. 05. et 09. Azevedo in tract. de lege Regia § 3. n. 4. =

n. 5

Ex quibus [illegible] [illegible] [illegible] dicit 2. [illegible]

(margin: [illegible])

Evidenter [illegible] Roman[illegible], [illegible] democraticam gubernatum potentem degenerit in [illegible] Consulibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] decemvir [illegible] [illegible] [illegible] [illegible] maiores [illegible] [illegible] decemviri [illegible] [illegible] [illegible] civil [illegible] cap. [18] [illegible] [52] n. 7. [illegible] [illegible] [illegible] maiores [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 4. [illegible] [illegible] [illegible] [illegible] quidem [illegible] [illegible] n. 41. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] maioribus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] patritijs, et Senatoribus [illegible] n. 9. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] Innocentius Hostiensis [illegible] [illegible] [illegible] 25. [illegible] n. 4. [illegible] 6. [illegible] et post [illegible] Baria [illegible] n. 3. [illegible] [illegible] [illegible] [illegible] eligendam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n. 6.

[illegible] ecclesiasticae potestati Civili quae a populo accepit potestatem [illegible] [illegible]

(margin: [illegible] ecclesiastica [illegible])

[illegible] ecclesiastica potestas, regimen, et gubernatio ecclesiae non a populo, nec ab hominibus, sed a Deo immediate concessa [13] fuit Pontifici Romano Summo Catholico [illegible] [illegible] cap. [illegible] de [illegible] [illegible], et cap. novit de iudicijs ibi potestas non est ab homine, sed a Deo tradunt [illegible] [illegible] [illegible] art. 1. [illegible] tract. 9. cap. 1. n. 6. [illegible] in d. cap. novit [illegible] [illegible] n. 28, [illegible] cum [illegible] directe circa spirituales ordinetur ad salutem animarum, et vitam aeternam, providere debet per [illegible] [illegible] [illegible] Apostolorum cap. 20. [illegible] posuit vos Spiritus Sanctus regere Ecclesiam Dei quam acquisivit Sanguine suo, ideoque [illegible] spiritualibus disponendis et administrandis [illegible] [illegible] [illegible] [illegible] antecedere [illegible] Imperatores, et Reges [illegible] tradita [illegible] [illegible] [illegible] maioritate et obedientia, cap. [illegible], cap. bene quidem 96. dist. [illegible] [illegible] [illegible] tanquam pastori, et Capiti suo Spirituali [illegible] [illegible] [illegible] [illegible] Delaurentijs [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] Joannes de Solboa [illegible] [illegible] [illegible] 157. =

n. 7

Ex quibus duo proveniunt [illegible] Pontificem [illegible] [illegible] [illegible] [illegible]

(margin: [illegible] [illegible])

[illegible] a Clero, et Cardinalibus electus, ipsi enim electores talem [illegible] habent potestatem, quam transferant, sed designant tantum personam [illegible] institutionis et [illegible] a Deo facta, [illegible] [illegible] suprema [illegible] conferatur, ut notat [illegible] tract. 4. de legibus cap. 4. § 1. n. 6. [illegible] [illegible] [illegible] recte et Canonice electi [illegible] a Deo immediate [illegible] in [illegible] [illegible] conferri, [illegible] [illegible] regimen illius [illegible], nec designari Collegij. [illegible] potestatem conferatur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Dominicus [illegible] 4. Salamanca, [illegible] 8, et post [illegible] [illegible] n. 10, et [illegible] de [illegible] 7. de legibus [illegible] n. 22. et [illegible] n. 3. [illegible] [illegible] [illegible] [illegible] [illegible] =

[illegible]

[illegible] solet an Pontifex potestatem habeat condendi leges, [illegible]

(margin: [illegible] Pontifex [illegible] [illegible] leges Civiles [illegible] [illegible])

Canonicas et ecclesiasticas [illegible] [illegible] [illegible], verum [illegible] Civiles, et politicas, [illegible] [illegible] [illegible] [illegible] qui [illegible] affirmativam defendunt, verior [illegible] negativa, [illegible] hac [illegible] [illegible] [illegible] Christiano [illegible] potestates distinctas temporalem [illegible] Regibus supremis, et spiritualem Pontifici data [illegible] cap. solitae de maioritate et obedientia [illegible] cap. duo [illegible] 96. [illegible] [illegible] ab altera dimanat, [illegible] [illegible] [illegible] debet [illegible] [illegible] adversus [illegible] Imperator [illegible] 96. dist. [illegible] cap. [illegible] cap. [illegible] [illegible] 10. dist. atque [illegible] Reges temporales nequeunt [illegible] spirituales [illegible] suis disponere, ita nec Pontifex debet [illegible] [illegible] temporales in terris secularis dominij leges directe ferre, in terris [illegible] [illegible] [illegible] [illegible] potestates [illegible] [illegible] leges Civiles [illegible], ut [illegible] [illegible] de Medices in tract. de legibus [illegible] [illegible] [illegible] =

n. 9.

Verum licet Pontifex directe leges Civiles in terris [illegible] [illegible] ferre [illegible] [illegible] indirecte recte [illegible] facere potest [illegible] ad finem spiritualem, nempe ad [illegible] Dei, et salutem animarum, ut [illegible] cap. solitae de maioritate et obedientia. [illegible] [illegible] 1. [illegible] Ecce constitui te hodie super gentes, et regna ut evellas, et destruas, aedifices, et plantes [illegible] [illegible]

(margin: [illegible] leges Civiles [illegible])

per [illegible] quin [illegible] legitimi [illegible] [illegible] [illegible]
[illegible] heretici, [illegible] [illegible]
[illegible]
[illegible] fidel [illegible]
[illegible]
[illegible]
[illegible]

et non [illegible] [illegible] ... [illegible]

[illegible]

[illegible] fideles [illegible] [illegible] [illegible]

[illegible] Clemens [illegible] [illegible] [illegible] pollutis
[illegible] Christi [illegible] [illegible] [illegible] temporaliter [illegible] subiectis de quibus fit mentio [illegible] [illegible] [illegible] [illegible] [illegible] ut [illegible] fideliter [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quia [illegible] bonis [illegible] [illegible] [illegible] [illegible] tradunt Cobb. de Covarruvias [illegible] c. 8. § 6. [illegible] [illegible]
de Justitia et [illegible] 2°. disp. 7. [illegible] Suarez de legibus lib. 3. cap. 6. n°. 7. [illegible] [illegible] [illegible] plures [illegible] et [illegible] [illegible] [illegible] n°. 2 lib. 8. [illegible] recapitulationis. =

Ubi princeps obsequiosus [illegible] [illegible]

n. 11
[illegible] venit [illegible] Princeps ob fidei amissionem [illegible] leges mittat [illegible] licet [illegible] [illegible] defendant [illegible] [illegible] Castro de [illegible] [illegible] potestas, [illegible], [illegible] de fide [illegible] [illegible] [illegible] [illegible] [illegible] quia [illegible] ad Romanos [illegible] 1° ad Timotheum [illegible] et [illegible] admonent [illegible] infideles, sed [illegible] fideles subditos [illegible] Regibus infidelibus [illegible] [illegible] [illegible] potestas [illegible] [illegible] requirit fidem, nec [illegible] [illegible] [illegible] bello [illegible] per [illegible] [illegible] regno [illegible]. [illegible] sequitur [illegible] infideles, [illegible] gentiles [illegible] baptizati habeant subditos fideles, et [illegible] apostatare, aut recedere a fide, vel [illegible] [illegible] [illegible], quamvis [illegible] infideles [illegible] [illegible] judiciali [illegible] regno, [illegible] [illegible] bellis in defensionem innocentis, aut [illegible] fidei [illegible] patientis, [illegible] [illegible] [illegible] regno. Contra infideles [illegible] baptizatos, [illegible] Hereticos, [illegible] apostatas [illegible] [illegible] immediate [illegible] et [illegible] [illegible] regimine, et regno [illegible] [illegible] [illegible] interveniant [illegible] jure [illegible] [illegible] [illegible] leges [illegible] de Hereticis [illegible]. ut docet [illegible] [illegible] 4 [illegible] [illegible]. =

[illegible] lege a tyranno [illegible].

n.° 12
[illegible] animadvertere [illegible] quod tyrannice usurpet [illegible] regni, et potestatem legislativam, in [illegible] regni, [illegible] teneantur obedire [illegible] tyranno, [illegible] nec habet [illegible] leges [illegible], [illegible] leges tanquam tales non habentur, [illegible] [illegible] [illegible], aut [illegible] ob defectum potestatis. [illegible] tyrannus [illegible] et [illegible] leges [illegible] quamvis [illegible] teneantur subiecti illas servare, [illegible] [illegible] obedire [illegible] [illegible] [illegible] [illegible], quoniam [illegible] tyrannus [illegible] [illegible] [illegible] [illegible], [illegible] cedere [illegible] [illegible], et non cooperentur ad mala, [illegible] Vitant [illegible] mala, [illegible] [illegible], quam [illegible] [illegible] docent [illegible] 4 [illegible] 41 [illegible] tyrannus, [illegible] [illegible] [illegible] n. 5°. [illegible] [illegible] limitationes [illegible] Pater [illegible] lib. 3. de legibus [illegible] 9. 1a. [illegible] leges [illegible] [illegible] [illegible], aut [illegible] [illegible] [illegible] [illegible] et [illegible] [illegible], [illegible] [illegible], [illegible] [illegible], quibus [illegible] [illegible] tyrannus habeat [illegible], [illegible] cooperatores injustitiae. = 2a. [illegible] [illegible] occasione tyranno, ut [illegible] [illegible] injustitia, [illegible] [illegible] [illegible], et [illegible], [illegible] obedientiae, [illegible] [illegible] voluntate, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], ut docet [illegible]. = =

[illegible]

n.o 13. Similiter etiam amittitur à Principe ipso mortali corruptionem [illegible] potestatem condendi leges dicendum, et licet à nulli parti affirmativae assentiant, non [illegible] [illegible] [illegible] [illegible] [illegible] quod talis iniquitas Legis [illegible] [illegible] potestate. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quia potius quamvis Princeps [illegible] [illegible] [illegible] [illegible] [illegible] pro [illegible] [illegible] [illegible] intentionis [illegible] [illegible] [illegible] subditos in quos fert legem, [illegible] [illegible] [illegible] rationabilis, et [illegible] [illegible] [illegible] conditiones verae Legis. [illegible] [illegible] [illegible] [illegible] legislatoris, quia legislator [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] iniusta, et iniqua [illegible] [illegible] [illegible] quamvis vera [illegible] [illegible] accipit potestatem ferendi leges iniquas, [illegible] [illegible] [illegible] subditi non erunt obedientiam huiusmodi legislatori, quoniam ob [illegible] [illegible] legem à se latam, [illegible] suam potestatem, aut dignitatem [illegible] [illegible], et tradit [illegible] [illegible] [illegible] n.o 3. ubi [illegible] [illegible] [illegible] [illegible] testimonia in quibus legitur plures Reges fuisse peccatores, et [illegible] [illegible] propterea amisisse dignitatem regiam, et potestatem legislativam =

n.o 14. Ceterum etiam suprema et legislativa potestas sit penes Imperatorem et Regem supremos, legislativa penes Romanum Pontificem ut diximus, [illegible] quandoque deri[illegible] tur, et conceditur inferioribus, et licet in Hispania Duces, Marchiones, et Comites [illegible] [illegible] [illegible] Regi subditi nequeant condere leges [illegible] [illegible] [illegible] [illegible] n.o 1. poterunt tamen [illegible] Rege [illegible] legem aliquam, vel specialem facultatem quid tales concedatur, ut docent Vasquez [illegible] 153 cap. 3. n.o 36. [illegible] [illegible] de legibus [illegible] n.o 45. Abendaño de exequendis mandatis cap. 5. [illegible] [illegible] Lopez [illegible] [illegible] partis [illegible] ibidem [illegible] legis admitte [illegible] populi consensus accessere, [illegible] leges, et [illegible] condere posse, quae expedient ad populi ornatum, et regimen, certe, dummodo [illegible] [illegible] non adversentur, et servetur [illegible] [illegible] legis 4 [illegible] [illegible] [illegible] recopilationis ut eleganter animad vertit [illegible] [illegible] [illegible] [illegible] [illegible], Acebedo in proaemio [illegible] [illegible] novae recopilationis n.o 4 [illegible] =

n.o 15. Ex quibus sequitur quod licet inferiores civitates Regi subiectae nequeant leges universales regni facere, possunt tamen ex concessu, vel permissu Principis ordinationes [illegible] [illegible] ad regimen populi pertinentes facere, quae et municipales [illegible] appellari solent ut notant [illegible] [illegible] populi [illegible] [illegible] et docent [illegible] [illegible] [illegible] [illegible] 4 n.o 69, et Burgos de Paz [illegible] [illegible] n.o 405, quae [illegible] [illegible] [illegible] Hispano [illegible] in l. 8. tit. 1. lib. 7. novae recopilationis, [illegible] [illegible] tales civitatis ordinationes ad Regem deferendas, ut videatur si habeant aliquid [illegible] [illegible] [illegible] [illegible] [illegible]. [illegible] doctrina ut diximus licet [illegible] [illegible] [illegible] civitatibus, [illegible] [illegible] [illegible] [illegible] in l. [illegible] 6 § 2 ff de excusationibus tutorum, [illegible] [illegible] [illegible] [illegible], et retinent supremam potestatem [illegible] ut olim Romana, et Atheniensis, hodie Venetiae, et Genuensis, [illegible] [illegible] leges [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 8. n.o 7. =

n.o 16. Similiter etiam Episcopi in suo episcopatu leges condere, quae ipso [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Catholica [illegible] [illegible] cap. [illegible] [illegible] c. 4 cap. 1.o de consecratione [illegible] [illegible] [illegible] [illegible] [illegible] cap. 2.o de locato, cap. 2.o de maioritate, et obedientia, [illegible] [illegible] [illegible] tit. 5. [illegible] [illegible] [illegible] in cap. [illegible] [illegible] [illegible] [illegible] de constitutionibus. Verum [illegible] [illegible] potestatem [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] verum, [illegible] [illegible] videtur se [illegible] [illegible] [illegible] [illegible] habere, [illegible] [illegible] Romano [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] legislatius [illegible] [illegible]. [illegible] [illegible], [illegible] Romana [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sollicitudinis vocatis, [illegible] [illegible] potestatis, cap. ita dominus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 4. [illegible] [illegible] [illegible] 4. 1.a parte, [illegible] 76. [illegible] [illegible] [illegible] 20 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 4 [illegible] 3. [illegible] [illegible] [illegible] [illegible] [illegible] 6. [illegible] [illegible] Turrecremata in summa [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

Margin notes:

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] Marchionibus [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] 24

2 [illegible]

n.º [illegible] — [illegible] Solet [illegible] [illegible]

[illegible] ges [illegible] [illegible] [illegible] [illegible] [illegible] Statis [illegible]

[illegible] [illegible] [illegible] Statis [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] 4. cap. 5. [illegible] 9. [illegible]

[illegible] apostolici [illegible] [illegible] [illegible] [illegible]

[illegible] exemendi [illegible] [illegible] [illegible]

[illegible] Clementina [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

n.º 18 — [illegible] [illegible] [illegible] [illegible]

[illegible] cap. [illegible] [illegible] [illegible] de religiosis [illegible]

[illegible] [illegible] [illegible] Romani [illegible] Apostolici [illegible] [illegible]

Statu [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ex cap. [illegible] 17. [illegible]

[illegible] cap. [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] in generali Concilio [illegible] [illegible] in cap. [illegible] de [illegible] [illegible]

[illegible] [illegible] [illegible] fidei declaratis [illegible], cap. [illegible] 24. [illegible]

statum Universitatis [illegible] [illegible] Sacerdotes, [illegible] [illegible] [illegible]

[illegible] [illegible] de legibus sect. 3. Bonacina de legibus [illegible] [illegible] puncto 3. [illegible]

[illegible] [illegible] generali [illegible] tenendis [illegible] [illegible] Synodali [illegible] forma [illegible]

[illegible] [illegible] [illegible] [illegible] Ordinarii [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] ad Ordinem [illegible]

Sacra Congregatio [illegible] [illegible] Romani [illegible] Barbosa de [illegible] 3. [illegible] 93. n. 26. —

n.º 19 — [illegible] [illegible] [illegible] [illegible] [illegible] Capituli, aut [illegible]

Controversia [illegible] Solet, que [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

a [illegible] sine [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] hanc potestatem [illegible] habent a Capitulo, vel a Clero, vel a Papa, [illegible] [illegible]

limitatam [illegible]; at que [illegible] Capitulum [illegible] [illegible] [illegible], [illegible] [illegible] [illegible]

disponere [illegible] [illegible] alienatis bonorum [illegible], [illegible] [illegible] [illegible] ad Capitulum, vel Clerum [illegible]

[illegible], atque ita intelligendus [illegible] cap. 4. [illegible] [illegible] [illegible] [illegible], [illegible] [illegible]

[illegible] cap. 24. [illegible] [illegible] Felinus [illegible] [illegible] de [illegible] n. 11 [illegible]

[illegible] 2. n. 4 [illegible] [illegible] [illegible] [illegible] 7. n. 41 [illegible] Suarez [illegible] 5. de legibus [illegible] 4. n.

n. [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

Legislatoris recte deducimus [illegible] [illegible] resolvendum [illegible] in Cardinalibus, [illegible] [illegible] [illegible]

[illegible] et Archiepiscopis, [illegible] religiosorum, in communitatibus, congregationibus [illegible] [illegible], [illegible]

[illegible] scholarium, de quibus [illegible] [illegible] [illegible] Suarez [illegible] 4 de legibus cap. 5. [illegible]

[illegible] [illegible] sect. 6. usque ad [illegible] [illegible] Paulus [illegible] de legibus cap. [illegible] [illegible], [illegible]

[illegible] [illegible] [illegible] Bonacina [illegible] [illegible] puncto [illegible] [illegible] [illegible]. [illegible]

[illegible] [illegible] Universitatis habere speciale privilegium a Paulo [illegible] Papa Maximo [illegible]

[illegible] [illegible] [illegible] [illegible] Apostolica Constitutiones, [illegible] facere, et [illegible]

[illegible] [illegible] [illegible] [illegible] Romano Papa [illegible], [illegible]

[illegible] Corrigere, [illegible], et annullare [illegible]

[illegible] [illegible], [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible]

Margin: [illegible] Capitulares [illegible] [illegible] [illegible]

Margin: de [illegible] [illegible] [illegible]

[illegible] Naturali ac vive [illegible]
= [illegible] =
= [illegible] =

[illegible] ... Etimologiarum ... [illegible] ... Ubique instinctu ... [illegible] ... quem sequuntur ... [illegible] ... humani generis ... sed omnium animalium, quae in caelo, terra, marique nascuntur, ut tradit ... Rebellus de just. ... Joannes Garcia ... [illegible] ... Satag. sequuntur. =

n.° 2. Verum haec inter D. Isidorum, et [illegible] diversitas facile [illegible], si animadvertamus antiquorum philosophorum sectas extitisse diversas ... [illegible] ... originem, et fontem ... [illegible] ... Italici, et Pitagorici ... [illegible] ... Laertius ... [illegible] ... Platonis, ut observat Turnebus in Comment. ad Ciceronis lib. 1. de legibus p. 109. [illegible] D. Isidorus ... [illegible] ... Stoicis ... frequenter ... ut videre est apud Marcianum ... in l. ... de legibus ... [illegible] ... Pitagoram tamquam Italicae sectae [illegible] ... [illegible] ... auctoritatem ... extat in l. 2. ff. de [illegible]. =

n.° 3. Nam licet hic intelligerent ... [illegible] ... divi Isidori doctrina ... [illegible] ... de iure ... naturali ... formaliter ... omnibus apud omnes nationes, intelliguntur, ... [illegible] ... patet, ... ibi iure naturae materialiter prout in brutis animantibus reperitur ... intelligenti, ... dicere esse omnium nationum, ... omnium animalium tam rationalium ... quam carentium. = ... liberorum ... successio, et educatio ... in omnibus animantibus ... acquisitio, item depositum ... pecuniae restitutio, et violentiae per vim expulsio ... animal ... carentia ... in l. 1. ff. si quadrupes pauperiem fecisse dicatur, ... hominis ... homicidio ... de iust. et iure, ... capit. 1. ... de deposito capit. unico de Commodato, atque ita ... Isidorus ... capit. ... [illegible] =

n.° 4. At si ... difficultatibus ... Isidori decreto, ... dicimus illa verba ius naturae esse omnium nationum significare ... hominum nascentium ... [illegible] ... ubique instinctu ... ius naturale ... hoc est Dei, atque ita ... naturae ... hominum ... ipsa, et Deo Creatore, qui hominibus sine hominum ministerio inspiravit. Itaque ... licet humanis legibus ... depositum ... violentiam per vim repelli posse, ... [illegible] ... humana ... originaliter pendere, multa ... in humanis legibus ... [illegible]

quam ... delegib. ... 2 ... [illegible]

[illegible] Similiter ... alii ... difficultatem ... [illegible]

[illegible] ... [illegible]

pacia ... mulier 4 ... 15 ... legis naturae ... [illegible]

... efficacia, nec particulare ... [illegible]

... doctrinam ... disciplina ... [illegible]

nec ... [illegible]

1º generali ... dicendi ... 2 ... difficultas ... [illegible]

... aeterna ... [illegible]

... notat Suarez de legibus lib. 2 cap. 4 nº 4. ... [illegible]

ad Corinthios cap. ... nunquam debet ... ut ... [illegible]

4. 3. 10 ... legi naturali ... participare ... [illegible]

num. 6. Ut utramque difficultatem dissolvamus Scriptores varia ... [illegible]

ex his qui tradunt ... legis naturae ... ex aliis plures quos refert ... [illegible]

... ad ... lib. 1. ... cap. ... in omnibus ... legis naturae ... [illegible]

liter sumpta, id est quoad ... non solum convenit hominibus, sed materialiter, id est quoad actus

hoc ... et quae sunt hominibus et brutis, atque ita in hoc sensu dici ... in humanum genus

... animalibus, quia ... definire ... ut docet ... penult. in ...

... in cap. ... de ... in 6º ... ad ... et ... in cap. ... 16

... lib. ..., ostat ... legis naturae ... proprie et formaliter in hominibus ratione utentibus dari

... et ... quae ... facit solo impetu quodam ... tunc ...

... faciunt ut notant ... naturali ad ... 1. §. 3º ...

... lib. 2º ... in ... peccati 2ª ... §. 11. nº 4. ... lib. 6. ...

... Turrecremata ... cap. ... legis naturae art. 4. ... sequentibus. =

num. 7. ... [illegible] ... legi naturae

... nihil aliud ... quam ... a natura hominis indita ... quam lumine ... absque alia ...

... et ... formae ... habens rationali ... et illud ... ponitur ...

hoc ... definitio ... ex D. Pauli ad Romanos cap. 2º ibi gentes quae legem non habent,

... naturaliter ... legis ... faciunt ... et ex aliis auctoritatibus quas ...

tradunt D. Thomas 1. 2. q. 94. art. 2. ... lib. 4. de legibus ... 2. art. ...

... quandoque ... appellatur ... Deus ... supremo legislatore ...

in actu, aut in habitu ... consistere ... docent ...

... questionibus ... lib. 1. de justitia ... q. 4 art. ... Gregorius de Valentia ... q. 7. ... 4. puncto

1. ... Suarez lib. ... de legibus cap. 9. nº 4. ... in habitu consistere ... ratio ... quia

Lex humana ... actualis cognitio vel judicium ...

... permanens ... tempora ... semper ...

... actuale judicium ... lumen ... permanenter ...

Semper actualiter ... =

num. 8. Hinc venit cognoscendum ... lex naturalis differat a conscientia

... quamvis aliqui ... acceperint ... apud

... D. Thomas ... q. 94 art. 1. ... de ... lib. 4 ...

... de legibus cap. ... differt in sequentibus: 1º ... generaliter ... naturalis

... dicitur ... in particulari, atque ita ... applicando legis ad particulares ...

... debet conscientia erronea, quae ... ignorantia ... erronea ...

... non ... habet ... 2º ... quia ... forte

... conscientia ... operandi ... [illegible]

... conscientia ... multos ... habere ... recentes ...

... liberet ... ad Romanos cap. 8. ...

illis ... cogitationibus ... accusantibus aut etiam defendentibus, et ... illud ...

... conscientia ... D. Thomas q. 79 art. 13. ...

[illegible] [illegible] Comparatione [illegible] [illegible] [illegible] [illegible] [illegible] =

n.º 9

[illegible] [illegible] naturalem [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] mali vel et [illegible] boni ut docet D. Thom. [illegible] art. 4 [illegible] [illegible] [illegible] ad legem humanam [illegible] peccat[illegible] mala [illegible] prohibita [illegible] legem [illegible] [illegible] principaliter in lege æterna, et [illegible] [illegible] [illegible] [illegible] quibus, [illegible] [illegible] [illegible] lex natura habeat vim [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Divina, [illegible] [illegible] Dei [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] voluntatem ut docet Anselmus in [illegible] [illegible] [illegible] [illegible] Dei [illegible], [illegible] [illegible] minime [illegible] [illegible] [illegible] legis Dei [illegible] Paulus ait ad Romanos cap. 4 ubi non est lex nec [illegible] [illegible] [illegible] [illegible] [illegible], nec [illegible] prævaricatio datur. Denique facit, nam [illegible] illud [illegible] in quo [illegible] [illegible] dicimus, [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] quod bonum ut sequatur, quid malum ut vitetur [illegible] illud Psalmi ostende nobis bona [illegible] [illegible] [illegible], docet ita Valentia [illegible] [illegible] 7. q. 4. p. 1. ad fin. Suarez [illegible] lib. 2 cap. 6. [illegible] denique Lactantius lib. 6. divinarum instit. cap. 6. ubi plures [illegible] [illegible] [illegible] affert. =

n.º 10

Deducitur ex [illegible] legem naturæ obligare in conscientia, et [illegible] de fide [illegible] illud [illegible] Romanos [illegible] [illegible] [illegible] legem non habent, [illegible], et [illegible] quicumque sine lege, [illegible], [illegible] [illegible] peccaverunt sine lege peribunt [illegible] [illegible] [illegible] [illegible] Ult. de [illegible], ubi [illegible] docet [illegible] naturæ transgressionem [illegible] conscientiæ, et [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible], [illegible] non obligat, [illegible], et e [illegible], [illegible] non obligat nec adstringit conscientiam, [illegible] [illegible] [illegible] [illegible] [illegible] lex [illegible] [illegible] [illegible] bonum, et [illegible] a malo et in multis cum conscientia conveniat, ut [illegible], ideo ab [illegible] [illegible] accusantur, vel [illegible] et aperta [illegible] obligare in foro conscientiæ. [illegible] illud quia transgressores legis naturæ in [illegible] [illegible] [illegible] pœna æterna, [illegible] [illegible] [illegible] [illegible] culpam, [illegible] lex naturalis obligat in conscientia ad culpam [illegible] quia legislator [illegible] legis [illegible] Deus, at Deus [illegible] legibus semper obligat in conscientia ad culpam [illegible] [illegible] legis divinæ [illegible] ipsum legislatorem [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] naturæ [illegible] dictamen conscientiæ, [illegible] [illegible] [illegible] legem naturæ, [illegible] conscientiæ, at [illegible] lex naturæ obligat in conscientia, docent [illegible] [illegible] [illegible] [illegible] [illegible] Thomas Sanchez de [illegible] lib. 1. disp. 6. n.º 24. [illegible] [illegible] Decalogi lib. 7. cap. [illegible] n.º 35. [illegible] in [illegible] tot. n.º 450 [illegible] Sabellus [illegible] [illegible] q. 117. n.º 5. Felicianus de [illegible] lib. 1. cap. 1. n.º 15. Suarez lib. 2. de legibus [illegible], et alii plures quos cum Divo Thoma refert [illegible] 7. [illegible] lib. 49. [illegible] art. [illegible] =

n.º 11

Ideo [illegible] [illegible] legem naturalem in conscientia obligare, [illegible] [illegible] [illegible] vel mediate, vel immediate, [illegible] [illegible] [illegible] obligatio, [illegible] conscientiæ [illegible], [illegible] [illegible] [illegible] et [illegible] obligatio illa descendat ex lege humana, nam etsi [illegible] voluntas principis interveniat hoc [illegible] impedit [illegible] [illegible] obligationis naturalis et [illegible] [illegible] [illegible] [illegible] quemadmodum [illegible] [illegible] obligatione voti intervenit [illegible] voluntas promittentis, [illegible] nihilominus obligatio voti [illegible] legis naturalis, [illegible] et obligatio [illegible] depositi, [illegible] interveniente voluntate celebrantis fuit, [illegible] [illegible] naturæ [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] illud [illegible] [illegible] [illegible] prohibet, vel præcipit [illegible] lex naturæ [illegible] [illegible] obligatio [illegible] ab ipsa [illegible] immediate, [illegible] [illegible] proxima. Circa [illegible] [illegible] præcipit, vel prohibet lex positiva licet obligatio oriatur immediate, et proxime ab ipsa lege positiva mediate [illegible] remote oritur a lege naturali [illegible] [illegible] lex positiva, [illegible] lex naturalis [illegible] [illegible] [illegible] superioris mandata legitime [illegible]. [illegible] [illegible] [illegible] ut nulla sit obligatio in conscientia [illegible] [illegible] aliquomodo [illegible] legis naturæ saltem mediate, et remote, ut docent Suarez de legibus [illegible] lib. [illegible] cap. [illegible] n.º 12. [illegible] [illegible] n.º 72 Valentia [illegible] disp. 7. q. 4 [illegible] et alii [illegible] [illegible] [illegible] art. [illegible] =

[illegible]

n.º 12 [illegible] ... obligat ... ad [illegible] ... vel sub [illegible]

[illegible] fugere vitandi malum, et [illegible] faciendi bonum. [illegible] ... Legis naturae [illegible] ponere aliquid [illegible] pertineat [illegible] ... necessitatem, et obligationem moralis [illegible] ... et vocatur obligatio naturalis [illegible] ... [illegible] ... obligatio naturalis [illegible] ... honestatis [illegible] ... necessitatem [illegible], sed consilium [illegible] ... [illegible] antidorali, de qua in l. [illegible] ... Ͳ de donationibus, et [illegible] oritur ex [illegible] ... quae oritur ex vinculo Legis naturalis, et haec obligat in foro conscientiae, licet Lex civilis [illegible] ... quae provenit ex nudo pacto nudo, et iure iurando cap. [illegible] de pactis et in aliis [illegible] ... quos late prosequitur [illegible] capite 9. n.º 44, et [illegible] p. 16 [illegible] n.º 52. =

n.º 13

Similiter infertur, nam Legis naturalis esse [illegible] bonum, et honestatis necessarium fuerit, et malum illi contrarium, illud ut faciendum, hoc ut vitandum, ut [illegible] deducitur ex [illegible] in L. penult. Ͳ de iust. et iure ibi [illegible] semper [illegible], ac bonum, ut [illegible] ut ius naturale, in L. [illegible] ius naturale Ͳ de [illegible], L. [illegible] ex noxali [illegible] §. [illegible] Ͳ de [illegible] et melius probatur ex [illegible] cap. ius naturale 7. [illegible] ubi ibi nam [illegible] hinc simile [illegible] iniustum, vel naturale, [illegible] habetur, ubi notat Turrecremata [illegible] 10, et omnes [illegible] scribentes [illegible] notantes illa octo exempla iuris naturalis ab Isidoro tradita [illegible] excludere alia similia quibus quod [illegible], et [illegible] a Lege naturali faciendum [illegible], [illegible] observantes [illegible] iuris [illegible] exempla non [illegible] regulam, de quo agitur in cap. [illegible] Clerici, vel monachi, [illegible] §. [illegible] Ͳ de vi [illegible] armata, et in [illegible] regula 9. §. ult. [illegible] Ͳ de iuris et facti ignorantia, [illegible] cum [illegible] iuribus tradunt scriptores antiquiores, et [illegible] Panormit. [illegible] cap. [illegible] ne Clerici vel monachi n.º 13. [illegible]. =

n.º 14

[illegible] solet apud scriptores, utrum [illegible] bonum et honestum vel malum contrarium cadat sub Lege naturali, [illegible] generalia principia [illegible] quae versantur circa bonitatem vel malitiam moralem sint [illegible] Legis naturalis, an [illegible] conclusiones quae ex hoc principio, vel ex his principiis eliciuntur. = Pro cuius [illegible] intelligentia 1.º observandum [illegible] praecepta alia esse prima principia practica per se nota, ut bonum esse faciendum, malum vitandum [illegible] illud vulgare quod tibi [illegible], alteri ne feceris. Alia esse [illegible] ex principiis deducta, quorum [illegible] alia sunt universaliora, et proximiora [illegible], ut Deum esse colendum, et cetera praecepta Decalogi [illegible] consideraverat D. Thomas q. 100 art. 3. [illegible] et 8. Alia sunt specialiora, et a primis principiis [illegible] distant, ut reddendum esse depositum, [illegible] accipiendum [illegible] et alia similia. = [illegible] in hoc tres gradus esse Legis naturalis correspondentes triplici appetitui, seu inclinationi [illegible] 1.º [illegible] hominis ad bonum in quantum [illegible] cum omnibus [illegible], seu substantiis [illegible] conservatio [illegible], et [illegible] gradum pertinent ad Legem naturalem [illegible] quae vita hominis [illegible] est hominis inclinatio ad aliqua magis specialia [illegible] in qua [illegible] cum animalibus [illegible] dicuntur [illegible] de [illegible] natura omnia animalia docuit, ut maris et feminae coniunctio [illegible] filiorum educatio, et similia. 3.º inclinatio hominis ad bonum [illegible] quam habet homo naturaliter obligatus ad cognoscendum et colendum Deum, et ut vitam agat socialem, et [illegible] naturalis [illegible] ad [illegible] excitabant, ut [illegible] homo ignorantiam vitet, [illegible] [illegible] consanguineos et [illegible] non offendat, cum quibus debet conversari, et alia similia. =

[illegible] Cuncta [illegible] [illegible] [illegible] [illegible] [illegible] sunt [illegible] [illegible] [illegible] principijs naturalibus [illegible] [illegible] Veritas [illegible] in Conclusionibus [illegible] [illegible] [illegible] Legis [illegible] [illegible] quam [illegible] Universaliter docent D. Thomas 1a 2ae q. 94. art. [illegible] art. 2o. Caietanus, Medina et alij ibidem, Valencia d. disp. 7. q. 4 puncto 2o. Suarez [illegible] Salas disp. 5. de legibus sect. 5. n. 18. Soto lib. 1o. de Just. q. 4. art. [illegible] [illegible] [illegible] n. 24. ubi plures auctores [illegible] [illegible] adducit, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Deinde deducitur ex dictis Legem naturae semper firmam, et immutabilem, [illegible]

Quod lex seu ius naturae quod donum Dei, et lumen mentibus hominis insitum diximus, nunquam immutatur, sed semper aequum et bonum, ut docet D. Isidorus in ultimis verbis dicti Capitis ius naturae 7. 1a dist. et [illegible] penult. ff. de just. et iure et Imperator Justinianus in § sed naturalia quidem iura Inst. de iure nat. et hoc immutabilitere [illegible] ut illa nunquam humanae potestas tollere, aut derogare potuerit [illegible] in cap. [illegible] 13. [illegible] q. 7. cap. ult. de consuetud. [illegible] ff. de [illegible], nec [illegible], nec [illegible] Ciceronis lib. 3. de republica in [illegible], huic legi, id est naturali nec propagari fas est, ne derogari ex hac aliquid licet nec tota abrogari potest, et ratio est, quia inferior legem superioris nec tollere, nec immutare potest, cap. [illegible] 25. q. 1. cap. [illegible] cap. Cum inferior de maioritate et obedientia ut eleganter tradit [illegible] [illegible] Soto. [illegible] [illegible] 2. [illegible] § [illegible] n. 3. de [illegible] lib. 6. [illegible] inst. moral. lib. 5. cap. 13 sequentibus, et alij plures, quos refert et sequitur [illegible] lib. 6. de matrim. cap. 5. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pronuncimus et asseveramus. = Et haec dicta sufficiant de hoc [illegible] 4o articulo =

Articulus quintus de parti[bus] [illegible] [illegible] [illegible] [illegible] [illegible] ius naturae 7. [illegible]

Legem naturalem unam esse, et plura continere praecepta, Conclusiones, praecepta, atque dictamina [illegible] superiori articulo edocuimus, quorum [illegible] exempla, a D. Isidoro delata in cap. ius naturae 7. 1a dist. [illegible] [illegible] ut hic tota [illegible] exposita maneat. Itaque [illegible] legis naturae exemplis est [illegible] atque [illegible] [illegible] [illegible] [illegible], cuius [illegible] legitima [illegible] [illegible] [illegible] annullatur, [illegible] § penult. ff. [illegible] [illegible] [illegible] [illegible] de [illegible], et [illegible] [illegible] [illegible] [illegible] ff. de [illegible] § 1. [illegible] de patria potestate [illegible] ter tradit [illegible] lib. 4o. de [illegible] [illegible] [illegible] [illegible] [illegible] Joannes [illegible] [illegible] [illegible]

[illegible] 3. [illegible] 2. [illegible] 3 [illegible]

[illegible]

[illegible] in primis [illegible]

[illegible]

[illegible]

putarunt [illegible]

[illegible] valentiam [illegible]

[illegible] quis [illegible]

[illegible] gratia [illegible] prophetis [illegible] erat tempus [illegible]

in aliquo tempore [illegible], immo [illegible] durante [illegible]

[illegible] prophetis [illegible] tempore [illegible]

Sicque stat minime probare illo authoritate [illegible], aut [illegible]

nare, ut tradit [illegible] de malo [illegible] cap. [illegible]

n.° 3.

[illegible] obstare videtur [illegible] testimonium [illegible] 340. ubi [illegible] duas vel unam simul habere [illegible], aut certe [illegible] concubinam, [illegible] legitima et honesta [illegible]

[illegible] concubinas habere [illegible]

[illegible] 4. [illegible] 340. ubi decernitur [illegible] non habere [illegible]

[illegible] unam [illegible], aut [illegible], aut concubinam [illegible] contentus [illegible]

[illegible] concubinam

[illegible] habere [illegible]

[illegible] sed [illegible]

[illegible] doctrina [illegible] tanquam [illegible]

[illegible] Pontificum [illegible] 5. cap. [illegible]

32 [illegible] 4. [illegible] cap. [illegible] cap. [illegible]

[illegible] 4. n.° 7. [illegible] 4. [illegible] 7. de malo [illegible] 54.

[illegible]

n.° 4

[illegible] et aliis [illegible] placet dicere [illegible]

[illegible] mulier [illegible]

[illegible] desideratur [illegible], et [illegible] matrimonialis [illegible]

[illegible] mulierem quam [illegible] ducebat, et si [illegible], et [illegible]

intercederet dicebatur [illegible] quasi uxor minus legitima [illegible]

tolerabatur [illegible] post [illegible]

[illegible] habuerit, [illegible] diaconum fieri, [illegible] 7. bigamus, et irregularis

[illegible] concubina [illegible]

[illegible] 2. 33. [illegible] 34 [illegible] post uxorem [illegible]

[illegible] mulieres [illegible] admittendas [illegible]

[illegible] uxor erat [illegible]

[illegible] acceperunt [illegible]

[illegible] 26 [illegible] cap. 41. [illegible]

[illegible] 54 n.° 6. [illegible]

[illegible]

n. 25 — [illegible] ... de [illegible] ... quando [illegible] ... Vasquez de [illegible] ... de Valencia ... Sanchez et alij relati a ... cap. 4. ... de matrimonio ... ad finem mundi ... Elizabet ... [illegible]

[illegible] ... Sibilla ... accederit occurrentes ... [illegible] ... necessitate ... Elizabet ... quippe affirmativum praeceptum ... Sibillam ... admittit necessitatem ... generis humani ... quoad ... Castitatis ab ... cap. 7. ... n. 24. ... seculares ... monachos, teneri ... generis humani ... ut ... tenere ... sub peccato mortali teneri ... matrimonium ... et subveniendi ... reipublicae ... ex ... bellis ...

n. 26

De exemplo ... a Divo Isidoro proposito ... inter liberorum susceptio, itaque ... debet ... Codicibus ... quippe ... generare liberos ... creatis ... et quamvis ... matrimonij ... animal ... ad servandam ... liberos ... teste Cicerone ... de finibus ... tradit ... Tiraquellus ... 10. de homicidio. Farinacius ... q. 122. n. 98. Molina de iust. et iure tract. 3. disp. 27. n. 6. Covarruvias ... de ... cap. 26. Barbosa ... allegat. 54. n. 136. ... qui affirmant ... facere ... abortum ... venena ... sterilitatis quibus generatio et susceptio impeditur, ... dicuntur ... in cap. ... 5. c. ... cap. Sicut ex litterarum de homicidio, ... Cicero ... ubi ... edita anno 1588 ... poenas ... censuras ... Apostolicae reservatas imposuit, ... edita, ... quoad ... et quod ... sterilitatis ...

n. 27

Beneficium ... liberos ... dicti ... Isidoro ... ut ... tenerentur filios ... naturalis ... educare ... quoque ... sustentare valeant, ... tit. de ... l. 1. ... de ... §. 10. ... servis ... filius ... pater ... necesse videtur ... cap. ... 86 ... n. 4 ... teneri ... quamdiu ... alere, ... pater ... mater ... teneri ... mater ... ubi ... alere ... ut dicebat ... l. 27 ... in ... l. 1. §. 2. ... liberorum ... humanum ... et ...

[illegible]

n.o 8

[illegible] alimentorum [illegible] educatio [illegible]

[illegible] quia adhuc [illegible] legem [illegible] quo filius [illegible] educatio [illegible] naturalibus [illegible] liberis [illegible] filij [illegible]

[illegible] paterna [illegible] decernuntur, adeo ut nec [illegible] maioratus [illegible] alijs filijs [illegible] educatio [illegible] tolli [illegible]

[illegible] part. 2 [illegible] c. 48. §. 6. n.o 6. [illegible] §. 5. [illegible] n.o 14. [illegible] 40 [illegible] n.o 17. Molina de hispanorum primogenijs lib. 2 [illegible] n.o 10 [illegible] n.o 5. lib. 7. [illegible] recopilatio [illegible]

n.o 9

Nec [illegible] adversus [illegible] habere [illegible] quam [illegible] adulterio, quatenus [illegible] filijs adulterinis [illegible] a parentibus [illegible] fuerint [illegible] filij sunt legitimi [illegible] educatio [illegible] filios [illegible] educatio [illegible] alimenta [illegible] ut patet [illegible] ut nec [illegible] a patre [illegible] parentes [illegible] filij [illegible] de alimentis lib. 1 [illegible] c. 8. §. 6. n.o 12 Carranza [illegible] n.o 56 [illegible] et alij [illegible] quos refert [illegible] Canedo [illegible] filij [illegible] Canonico [illegible]

n.o 10

[illegible] habuerat [illegible] educatio [illegible] alimentandi, quam educandi [illegible] de educatione [illegible] de educatione [illegible] de alimentis [illegible] filios [illegible] patrimonij [illegible] ideoque [illegible] filios [illegible] mater [illegible]

[illegible] ad [illegible] spectat [illegible] et [illegible] Consideret [illegible]
[illegible]
[illegible]
[illegible] non fuerit [illegible]
[illegible]

[illegible] natura [illegible]
[illegible] in [illegible] mundi [illegible] solo natali iure bona [illegible]
[illegible] rerum [illegible]
[illegible] ut [illegible] Nec debet
[illegible]
[illegible] Videbur [illegible] iure nati [illegible] potius [illegible]
discrimen Constituendum inter statum [illegible] ante [illegible]
statum naturae humanae post peccatum [illegible] homines [illegible] rerum [illegible]
in 2° vero [illegible] naturalis ratio [illegible] dominia [illegible]
[illegible] pars [illegible]
ea communi [illegible] de servitutibus urban. praedior. l. [illegible] 77. [illegible]
qui tradunt Aristoteles 2° politicorum cap. [illegible]
ras [illegible] discordia [illegible]. [illegible] humano [illegible] iure nati [illegible]
te [illegible] dominiorum [illegible], qui [illegible] sit priori dispositioni [illegible] in statu naturae [illegible]
[illegible] dicitur [illegible] cap. 1. [illegible] n.° 6. [illegible]
[illegible] D. Thomas [illegible]

n.° 17. [illegible] doctrinis firmatur [illegible] Clemens [illegible]
[illegible] 2, [illegible] qui [illegible] debebant, [illegible] in hoc mundo hominibus [illegible] debuit, [illegible]
[illegible] hoc [illegible] dixit [illegible] et sic inter mortales [illegible] diversio [illegible]
[illegible] naturae humanae corruptae. [illegible] obiter [illegible]
[illegible] Clementis [illegible] cuiusdam [illegible] aut fraude [illegible]
ut animadvertitur [illegible] docet [illegible] de [illegible]
dialogo 15. n.° 10. [illegible] Vba [illegible] de [illegible] utrumque
[illegible] communia, et [illegible] aliquid proprium, provenire [illegible] iure nati [illegible] diversos [illegible],
atque [illegible] in statu naturae corruptae [illegible]
[illegible] de furtis [illegible] de [illegible] de Obligationibus quae ex delicto nascuntur, [illegible]
extremam necessitatem [illegible] circumstantia [illegible]
[illegible] necessitatis [illegible]
[illegible] et alii plures quos refert, et sequitur Cevedo in [illegible] ad Decretale [illegible] Coll.
[illegible] de furtis [illegible]

n.° 18 [illegible] exemplis [illegible] hominum libertate, [illegible] attento
[illegible] homines liberi nascebantur, l. [illegible] 4. [illegible] de [illegible] et [illegible]
liberos [illegible] Deus hominem Creavit
sit, et [illegible] super omnes Creaturas [illegible] caput [illegible] et [illegible] B [illegible]
[illegible] erat naturalis libertas [illegible] exerceret. = Nec huic doctrinae [illegible] illud
quod frequenter [illegible], [illegible] servitutes libertati [illegible] naturae, et [illegible]
[illegible] ut [illegible] personarum, [illegible] libertatis [illegible]
provenire [illegible] naturali [illegible] humani, [illegible] obtineret, [illegible]
[illegible] innocentiae [illegible] et naturae lapsae post peccatum. Attendendum
1° statu [illegible] erat [illegible], Considerato autem statu post peccatum, [illegible]
[illegible] conformis, et [illegible] ad [illegible]

[illegible] ... cap. de illo, § 4. [illegible] ... Tenara [illegible] ... occidere [illegible] ... poterant [illegible] ...
... del. 7. § [illegible] ... personam [illegible] ...
[illegible] n.° 7. [illegible] n.° 17. [illegible]

n.° 14

[illegible] ... exemplum [illegible] ...

[illegible]

[illegible]

Robore [illegible] ... aut [illegible] ...

[illegible] ... facultate [illegible] ...

[illegible] ... Cornelij [illegible] ... cap. 6. litt.ª T. [illegible]

n.° 15

7 exemplis assignatis — Sextum exemplum assignatur [illegible] ... tem, aut commodatam [illegible] ... alij [illegible] ... autem qui non Valet sibi [illegible] ... bona fide [illegible] ... depositi [illegible] ...

... humaniter [illegible] ... L. ... § ... ff. nautae caupones [illegible] ...
de R. J. tract. [illegible] ... de Just. et jure [illegible] ... art. 1. [illegible] ...
[illegible] n.° 16. in fine. [illegible] ... restituendi deposit [illegible] ...
[illegible] ... illis [illegible] ... humanis solutis [illegible] ...
[illegible] ... humanis [illegible] ... Cum [illegible] ... ut docet [illegible] ... moral. lib. 5. cap. 11.
[illegible] ... in quibus [illegible] ... circumstantias [illegible] ... dicto [illegible] ...
[illegible] ... arbitrium [14] 22. q. 2. [illegible] ... Sanchez n.° 12, et [illegible]
[illegible] ibidem n.° 22. [illegible] ... qui de hac re consulendi [illegible]

n.° ult.

Postremum exemplum explicatur — Ultimum [illegible] ... exemplum ponit [illegible] ...
[illegible] ... violentus [illegible] ... L. [illegible] ... §. Cum [illegible] ...
[illegible] ... dicatur L. scientia 45. § [illegible] ... ff. ad L. Aquiliam [illegible] ...
[illegible] ... cap. significasti de homicidio. — Nec [illegible] ...
[illegible] ... animadvertit D. Thomas 2. 2. q. 4. art. [illegible] ... homo debebat ad [illegible] ...
[illegible] ... licet [illegible] ...
[illegible] ... cap. [illegible] ... cap. [illegible] ... de homicidio [illegible] ...
[illegible] ... de homicidio, [illegible] ...
[illegible] ... de homicidio, [illegible] ...
[illegible] ... de homicidio [illegible] ... § unico [illegible] ...
[illegible] ... cap. [illegible] ...

[illegible] ... L. 3. C. ad legem Corneliam de [illegible]
[illegible]
[illegible] ... temporis [illegible]
[illegible]
[illegible]
[illegible]

Articulus sextus De humanae legis effectu seu an obliget in foro conscientiae ad culpam mortalem [illegible] [illegible] decretum [illegible]

Unum tenet [illegible] universos [illegible] agnoscunt legem humanam [illegible] obligare subditos in foro conscientiae [illegible] humanas leges [illegible] aliquando [illegible] conscientiam [illegible] definitum erat in Concilio Constantiensi [illegible] Joannis Wiclefi, et aliorum Haereticorum [illegible] decimo [illegible] Divus Paulus ad Romanos cap. 13 ubi Apostolus ait quod omnis anima potestatibus sublimioribus subdita sit; et qui potestati resistit, Dei ordinationi resistit, [illegible] per conscientiam [illegible] Divi Petri cap. 2 verum 13 [illegible] duobus sequentibus ib. [illegible] omni humanae creaturae propter Deum, sive regi quasi praecellenti, sive ducibus tanquam ab eo missis quia sic est voluntas Dei, [illegible] placuit principem saecularem aut rempublicam suis legibus posse subditos conscientiae [illegible] Apostoli [illegible] loquuntur [illegible] de omni potestate tam civili quam ecclesiastica loquuntur [illegible] et communiter [illegible] 1. 2. q. 96. art. 4. Castro de lege poenali c. 4. [illegible] 6. [illegible] in manuali c. 23. n. 54. Suarez de legibus lib. 3. cap. 21 n. 6. et lib. 4. c. 13. Bonacina eodem tractatu disp. 1. q. 1. puncto 7. n. 27. [illegible] plures [illegible] lib. de legibus [illegible] 7 [illegible] Archiepiscopus Hispalensis [illegible] lib. 4. de legibus [illegible] per totam.

Dico 2.

Verum contra hanc veritatem [illegible] doctrinam [illegible] difficillima argumenta [illegible] Divus Augustinus lib. 22. contra Faustum cap. 27 ubi [illegible] peccatum esse dictum, factum, vel concupitum contra legem Dei, [illegible] legem humanam [illegible] peccatum [illegible] aperte [illegible] legem humanam obligare in conscientia, [illegible] illud quod servare divina mandata sufficit ad vitam aeternam consequendam [illegible] Matthaei cap. 19 [illegible] ingredi serva mandata mea, [illegible] illa servaverit, quamvis non servet leges humanas [illegible] custodierit. — Facile [illegible] obligandi legis humanae [illegible] ex lege aeterna, atque divina [illegible] obediendi [illegible] humanae potestati atque ideo qui legem humanam [illegible] violat legem aeternam, [illegible] definitio peccati ut [illegible] Castro [illegible] lib. 3. cap. 6. [illegible] puncto 4. n. 3. ad 2. [illegible] difficultatem [illegible] nam qui servat leges humanas [illegible] mandata Dei servat, ac [illegible] sibi acquirit, [illegible] Divi Matthaei cap. 19. de [illegible] legitimis mandatis tam divinis, quam humanis intelliguntur, ut ibidem expositores tradunt. —

Dico 3.

[illegible] praedictam doctrinam [illegible] forum conscientiae [illegible] seu judicium Dei, forum enim [illegible] significat [illegible] quo judicia exercentur [illegible] significat judicium, atque duplex [illegible] forum, [illegible] externum, [illegible] judicium ordinarium internum [illegible] in mente hominis [illegible] conscientia [illegible] exercetur, [illegible] forum conscientiae dicitur, [illegible] forum poli [illegible] Dei [illegible] 27. q. 4. [illegible] obligare in Dei foro [illegible] inferior non potest obligare in foro superioris [illegible] nemo potest obligare in foro [illegible] cognoscere, nec judicare [illegible] judicium [illegible] humanam legis latorem posse [illegible] obligare in conscientia. — [illegible] dicendo [illegible] forum conscientiae esse forum Dei, [illegible] obligare in conscientia sub peccato mortali, [illegible] Principes tam ecclesiastici, quam [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Art. 4

[illegible] absolui, nam illa [illegible] contra [illegible] Deo [illegible] et remissionibus, sed legislator humanus [illegible] absoluere in foro conscientiae [illegible] quae sit vera culpa coram Deo, quod non poterit obligare [illegible] coram Deo, ac [illegible] nec in conscientia. [illegible] remittere [illegible] nam [illegible] sibi obligationem [illegible] auferre, quod [illegible] procedit [illegible] venit alliunde, tunc [illegible] obligatio principaliter ex potestate proxima legislatoris [illegible] potestate et virtute Dei. Caeterum non negamus quod in legibus [illegible] legislatoris [illegible] consensus habere possit proportionalem [illegible] qui potuit obligationem legis imponere, potera[t] [illegible] det ablig[ationem] voluntate, veluti ferendo, et auferendo leges ipsas, atque ita sicut humanus legislator potest ponere obligationem in conscientia legem ferendo, ita et obligationem auferre tollendo aut in ea dispensando quod procedit ante transgressionem ipsam, quippe data transgressione legis, culpa in foro conscientiae iam commissa a solo Deo remitti valet cum contra Deum sit, et legi [illegible] repugnant, quia diuersi, immo altioris ordinis, quam sit potestas legislatoris humani, ut [illegible] Suarez [illegible] lib. 3 de legibus cap. 23 [illegible]

Art. 5

[illegible] superest succedit tradere signa quibus cognoscamus [illegible] legem subditos in conscientia obligare, quae in re omissis variis sententiis et explicandi [illegible] ad duo reducenda censemus, nempe ad materiam legibus contentam, et ad intentionem legislatoris. [illegible] quoad [illegible] dicimus materiam rei imperatae seu praecepti debere esse grauem [illegible] tanquam [illegible] obligationis capacem [illegible] cap. [illegible] de [illegible] clem. [illegible] quippe [illegible] et [illegible] sit, [illegible] legis violatio lethalis quamuis [illegible] legislator ut qui [illegible] lethale peccatum [illegible] tradunt [illegible] Thom. [illegible] art. [illegible] Suarez [illegible] cap. [illegible] [illegible] n. 13. Molina [illegible] n. 16. [illegible] sententias materia consideranda ex [illegible] quae ad bonum reipublicae salutem refertur; veluti si fame publicam urgente, et annonae [illegible] laborantibus, lex feratur ut [illegible] abunde [illegible] annona vendant [illegible] ne populus fame pereat, tunc materia [illegible] reputabitur grauis, [illegible] lex [illegible] ne medici peste [illegible] oppidis, vel [illegible] hostili premente bello [illegible] lege ne extra prouinciam arma, vel [illegible] extrahantur; item si lex feratur de [illegible] pertinent ad iustitiam [illegible] et religionem [illegible] et seruandam, legis materia [illegible] attentis circumstantiis spectanda, cum interdum accidat ut ad [illegible] [illegible] sit secundum se, [illegible] ad [illegible] pacem [illegible] disciplinam seruandam et scandala [illegible] graue sit, ut tradunt D. Thomas [illegible] Salmant. de legibus cap. 14 n. 2 [illegible] disp. 10 [illegible] Thomas Sanchez in praecepta decalogi lib. 1 cap. 4 n. 4. animaduertentes de [illegible] grauitate [illegible] vel ex suo genere, vel per accidens, attentis tamen circumstantiis [illegible] superiorem subditos [illegible] cum mortali obligare.

Art. 6

Quoad [illegible] de intentione legislatoris dicimus illa debere [illegible] grauitate et obligationis legis ad culpam mortalem, tunc leges ad [illegible] obligant [illegible] in rebus [illegible] [illegible] aut [illegible] prohibitum [illegible] Caeterum si legislator suis legibus [illegible] materiam grauem versari, [illegible] obligationis leuem, [illegible] veniali tantum culpa, [illegible] [illegible] intentionis [illegible] [illegible] si circumspectatur [illegible] quae tradunt Antonius Faber in iurisprud. [illegible]

Anne ex duobus requisitis [illegible] legis [illegible]

[illegible]

[illegible] 4 n. 56. [illegible] Sarmien. [illegible] ut [illegible] num [illegible] sup. [illegible]
[illegible] de lege [illegible] lib. 5. cap. [illegible] Valqz. [illegible] 2. 10. [illegible] 7. [illegible] de [illegible] 7. [illegible]
[illegible] lib. 3. cap. 7. n. 2. [illegible] n. 4. [illegible]
[illegible] lib. 6. [illegible] 4. [illegible] ubi [illegible] alios refert [illegible]
[illegible]
[illegible] obligatione sub mortali, vel veniali [illegible]

A [illegible]

n. 7

Secundum cognoscendi huiusmodi [illegible]
[illegible] Obser. [illegible] quae [illegible] non [illegible]
Veluti [illegible] Cinno, [illegible] quae [illegible]
[illegible] significant [illegible] ut [illegible], monemus et [illegible], ut inter alios [illegible]
[illegible] moral. lib. 5. cap. 6. q. 5. [illegible] sunt [illegible]
ut [illegible], [illegible]amus, iubemus, mandamus, prohibemus, teneantur [illegible]
ut animadvertit [illegible] pastoralis [illegible] de more de [illegible] Archidiaconis [illegible] iubemus [illegible]
[illegible] Archidiaconus [illegible] interdicit [illegible] Thomas Sanchez
[illegible] lib. 6. moral. c. 4. n. 30. [illegible] sub mortali obligarent [illegible]
[illegible] §. Cum [illegible] declaramus [illegible] poenae si addatur [illegible] in [illegible]
[illegible] iurament. aut sub poena excommunicat. ut [illegible] frequenter [illegible], et mandat. [illegible], et regulam
et [illegible], ut docent Molina [illegible] disp. 344 [illegible] Thomas Sanchez [illegible] 4. n. 6
et alii [illegible] puncto. [illegible] n. 4 [illegible] =

n. 8

Si vero [illegible] non [illegible]
vel simplicem [illegible] ordinat. [illegible], qualia [illegible] oportet, debet, teneantur, [illegible]
[illegible] gravitas, [illegible] quae [illegible] circumstantiis [illegible] poenae [illegible]
[illegible] spiritualibus [illegible] gravis [illegible] Veluti excommunicationis maioris, [illegible]
[illegible] Catholici [illegible], ut docent [illegible] de legibus lib. 4 cap. [illegible] n. 4. Valqz. [illegible] et alii
quos refert, et sequitur Bonacina [illegible] de legibus disp. 1. puncto 7. § 4. n. [illegible] excommunicatio [illegible]
[illegible], [illegible] obligationem sub mortali [illegible] frequenter [illegible]
[illegible] Enriquez [illegible] lib. 13. de excommunicat. c. 17.
§. 2. [illegible] lib. 1. de [illegible] cap. 5. Thomas Sanchez, et alii [illegible], et
[illegible] sermonem [illegible] poena minor
excommunicat. [illegible] obligationis sub mortali, [illegible], ut bene [illegible]
Vasquez [illegible] 96 art. 4. disp. 158 n. 4. [illegible] moral. [illegible] =

n. 9

[illegible] sub mortale [illegible]

[illegible] temporalis poena [illegible] imponitur [illegible]
[illegible] ad mortale, [illegible] sit affirmativa, [illegible], maiori placet [illegible]
qui existimant [illegible] inter leges [illegible], ut [illegible], [illegible]
[illegible] poenales [illegible] imponunt. Veluti [illegible] iubemus, aut [illegible]
[illegible] mortali poena, [illegible] obligat ad culpam gravem sed [illegible] ad poenam [illegible]
[illegible] de [illegible] 7. [illegible] ad culpam [illegible] leges [illegible]
ut docet [illegible] peccatis [illegible] n. 4. [illegible] lib. 6. [illegible] temperandae, et [illegible]
ad 17 [illegible] mere poenalis [illegible]
[illegible] obligare ad culpam, tunc [illegible] illius [illegible]
[illegible] tributorum, et vectigalium [illegible] debito ad [illegible]
[illegible] gravitas [illegible] valde utilis reipubl. [illegible], nam [illegible]
[illegible] interdicere [illegible] legem mere poenalem [illegible], ut docent [illegible] et Sanchez [illegible]

n. 10

[illegible] in [illegible] poenae [illegible] qualit.
mag. [illegible] ad culpam levem, vel gravem obligare intendat

[illegible]

[illegible] ad [illegible] Conventum [illegible] obtineri, [illegible] deficiat [illegible]

nullus [illegible] obligat in conscientia sub mortali [illegible]

[illegible] obligandi [illegible] debemus [illegible]

[illegible]

[illegible] punctis [illegible] — [illegible]

[illegible] sub mortali [illegible]

[illegible] legem obligare [illegible]

[illegible]

[illegible] moralibus resolut. 24. et hoc est [illegible] quem [illegible] potuerit procedere [illegible] =

Ad 11. Hinc venit decidenda difficultas quae, ubi lex, quibus obstat conscientia tantum sit ut cum dispendio vitae subditos adstringere valeat, in [illegible] vite affirmativa, et negativa sit sententia, tamen ad concordiam pene reduci [illegible] legislatorem posse ad actum cum periculo mortis annexum, sed regulariter cum tanto periculo non obligari, immo nec cum periculo amissionis membri, honoris, aut bonorum magnae iacturae, cum ea quae valde esse moraliter censeantur impossibile l. 3. ff. de statu liberorum, ad impossibile autem nemo adstringi [illegible], cap. erit autem lex 4. cap. vero de R. J. n. 6. Ideoque observandum est quod quoties cumque ex [illegible] praecepti humani observatione magis reipublicae commodo operatur, aut ex illius neglectu magis incommodum quam quod timeri debeat periculum vitae, aut famae, aut honoris amittendorum, humanam legem posse cum tanto periculo obligare ut docent Soto lib. 1. de iustitia, Gratia [illegible] art. 4. Suarez de legibus [illegible] cap. 30. Vasquez 1a 2ae disp. 161. cap. 2. Laiman lib. 1. tract. de legibus cap. 14. n. 5. et alii quos refert, et sequitur Castro Palao [illegible] posset principes efficaciter suadere bono communi ac potius quam impare [illegible] praecepti illius legis licet quis specialiter obligatus ad illius actus, posita tamen [illegible] remanet obligatus, ut inter alios aliqui animadvertit Cobb. in cap. alma mater 1. p. § [illegible]

Ad 12. Sed nihilominus quaeris ducem belli posse habere milites ut [illegible] servet cum vitae suae discrimine, item [illegible] Dominus mandare sacerdoti, velut ut sub [illegible] ne [illegible] fidem paganis [illegible], nec [illegible] parocho ut in parochia permaneat [illegible] tempore pestis, et denique quod quoties cumque legis [illegible] transgressio videatur tendere in detrimentum fidei, aut religionis, et in contemptum legislatoris potestatis, lex obliget ad observationem cum discrimine vitae aut alterius gravis nocumenti, velut si communicatio cum excommunicato, aut violatio ieiunii, aut [illegible] ecclesiasticorum tenderet in detrimentum religionis christianae, aut contemptum ecclesiasticae potestatis, ut constat ex [illegible] sacris [illegible] relatam esse, Sanchez [illegible] c. 4. ex quo [illegible] ex scriptoribus intelligendum putarunt factum Hermenegildi qui potius mori voluit, quam [illegible] ab haeretico sumere, [illegible] superveniente [illegible] cap. 24. n. 2. [illegible] plures [illegible] authoritate [illegible] interpretantur [illegible] dispensatione [illegible] n. 9. Thomas Sanchez lib. 7. de matrimonio, disp. 5. n. 4. [illegible] ubi nullus [illegible] immediate adducunt quaestiones. =

Ad 13. Hinc quaeri solet an Carthusiani lex de abstinentia a carnibus obliget cum detrimento vitae; ita ut in eo periculo constituti possint [illegible] conscientia ab illis abstinere [illegible] caeremonias a carnibus abstinere, [illegible] quibus vindicamus, [illegible] Carthusiani in vitae periculo [illegible] habeat alios cibos [illegible] carnes [illegible] possit et debere illis vesci adeo ut si a carnibus abstineat [illegible] caret mortaliter, nisi interveniret [illegible] et rationabilis causa maioris momenti quam vitae conservatio

Velut

Marginal notes:

[illegible] obliget et in conscientia [illegible] periculo vitae [illegible]

Quando quae oblig. et leges [illegible] cum periculo vitae.

De lege Carthusianorum.

[illegible] ... Chronicis cap. 8 ... [illegible] ... B. de ... [illegible] ... vel ... [illegible] ... publice ... [illegible] ... moral. ... cap. ... [illegible]

n.° 14

Denique omittere non possumus necessarium esse ut sit dicta lex humana ad hoc ut obliget in conscientia; contineat autem lex 4 conditiones quas tradit Mol[ina] in tr. de legibus ... n.° 11 et ... articulo ... quippe ... ut in conscientia ... aliquid ... et bonis moribus contrarium ... obligatio ad peccatum ... talis sit lex ut sine ... possit, et si ... nulla ratione parendum. Similiter ... legis proveniat ex parte ... legi ferendi ... in conscientia ... foro obligatio ... [illegible] ... qui ... potestatem habeat ... [illegible] ... dominus ... [illegible] ... quid faciendum, vel non faciendum sit, ut docent Suarez lib. ... de legibus cap. 9. Bonacina eodem tract. ... puncto 7. § ... Molina de just. ... tract. 5. disp. ... n.° 10, et alij plures, quos refert ... Ferdinandus de Castro ... disp. 1. puncto 24 n.° 7 ... [illegible]

n.° 15

... provenit ... legis humanæ in foro conscientiæ ... obligatio si ... ex parte subditorum ... tenent ... deficiat in subditis fundamentum ... illis imponitur, ... illius legis quæ in præsumptione fundatur ... veritate, quæ nunquam obligat cum præsumptio veritati cedat, ... Sanchez ... n.° 264 ... cap. 26 n.° 62 Coll. ... n.° 9. Bonacina ... puncto 7. § ... et alij ... de matrim. cap. 5. n.° 6, ... explicant ... difficilis, docent duplicem posse ... præsumptionis legis, aliam quæ fundatur in aliquo facto, vel delicto, aliam quæ fundatur in periculo illius, vel ut alij dicunt, aliam præsumptionem de quolibet homine singulari, aliam de ... [illegible] ... quæ lex ... præsumptionem ... facti ... delicti, hæc ... præsumptio ... [illegible] ... veritati ... conveniat, ... obligatio legis ... quippe ... præsumptio ... debet ... [illegible] ... obedire in conscientia ... [illegible] ... ut ... [illegible]

n.° 16

Hinc descendit heredem qui in confecit inventarium teneri in foro conscientiæ solvere legata, nec debita defuncti, quæ excedunt vires hereditarias, non obstante ... C. de ... deliberandi, quia præsumptio delicti seu facti ... in qua lex illa fundatur, deficit in hoc casu, ut docent Suarez ... de legibus cap. ... n.° 9. Coll. ... n.° 20. Bonacina ... [illegible] ... affirmant ... cap. 19 ... professi, qui ... reclamare volunt, et ... nullitatem professionis, ... in foro conscientiæ ... professi, ... præsumptio ... professionis

111

Careat tamen veritate, et remanet religiosus in foro conscientiae [illegible] principaliter [illegible]
videre de regularibus [illegible] quos tradunt [illegible] t. 3. [illegible] de regularibus [illegible]
Aug. [illegible] Thom. Sanchez lib. 7. de matrim. disp. 37. n. 9. [illegible] [illegible]
lib. 3. cap. 41. n. [illegible] habent [illegible], et [illegible] in tenenda conscientia [illegible]
[illegible] culpa [illegible] est [illegible] [illegible] =

n. 17

Secunda, [illegible] Summi Pontificis [illegible]

Pij 5. [illegible]

anno 1587. annullans professiones [illegible] vita et moribus [illegible]
ad illius constitutionis formam [illegible] in foro conscientiae [illegible]
tali [illegible], [illegible] modo in veritate [illegible] defectus [illegible] requirebantur [illegible]
contra leges [illegible] illius constitutionis [illegible] [illegible] suspecti, aut [illegible]
[illegible] redendis obligati, qui [illegible] vivere non poterant, ad religionem [illegible]
suspecto habitu professionem emittebant, atque ideo [illegible] ad religionem inhabiles declaravit, et
[illegible] admittentibus [illegible], [illegible] decretum ad professionis nullitatem
fundatur [illegible] ut ex illius contextu apparet, [illegible], [illegible], qui [illegible]
illos defectus, manebit [illegible], et obligatus religioni, ut docent Emanuel Rodriguez [illegible]
regularium q. 54. art. 4 et alij plures [illegible] Diana [illegible] resolut. 27. [illegible]
bus, qui etiam animadvertit [illegible] privatur [illegible] officijs muneribus, et honoribus [illegible]
[illegible], vel per falsos testes, vel [illegible] [illegible]
aut timore tormentorum crimen confessus [illegible], et [illegible] veritas in contrarium, poterit in foro
[illegible] uti officijs, et muneribus, [illegible], quia illa fuit [illegible]
lex quae fundamentum habuit in [illegible] in hoc peculiari casu, atque ideo deficiente [illegible]
[illegible] obligatio ut etiam animadvertit Barbosa [illegible] cap. 5. [illegible] =

n. 18

[illegible] lex fundatur in [illegible], ut in pluribus [illegible]
in periculo [illegible] [illegible] casus in aliquo casu, quia [illegible] generaliter, et absolute [illegible]
[illegible], [illegible] in solo in foro exteriori, sed etiam in foro conscientiae, ut animadvertit
[illegible] de lege poenali cap. 5. documento [illegible]. Exemplo [illegible]
[illegible] marito, et alienat. bonorum [illegible] sine solemnitate requisita [illegible]
nullius esse momenti ob fraudis periculum, [illegible] cum ob tale periculum vitandum annullantur, [illegible]
in foro conscientiae, [illegible] in aliquo casu [illegible], [illegible] periculum adsit. = [illegible]
clandestina [illegible], et testibus [illegible], et irritantur a Concilio Trid. sess. 24. de [illegible]
matrim. cap. 1. ad [illegible] dolos, et [illegible] illius ordinarie irrita, et inefficacia
in foro conscientiae, etiam si aliqui in aliquo casu videantur [illegible] sine fraude, et [illegible]
[illegible] et [illegible] quo illud decretum fundatur [illegible] atque ideo [illegible] in foro conscientiae
[illegible] = deducitur similiter religiosorum praecepta, quae sub obedientia [illegible] prohibent [illegible]
in [illegible] habitatur ob [illegible], etiam si [illegible] [illegible]
[illegible] lex erat imposita, obligare in foro conscientiae, et mortaliter peccare [illegible]
[illegible] fundatur in [illegible], vel [illegible] singulari casu, [illegible]
plurimum [illegible], et [illegible] periculum generaliter [illegible] intendit, [illegible]
[illegible] praeceptio, [illegible] obligatio legis. =

n. 19

Postremo, Ad hanc obligationem [illegible] fundat [illegible]
nobilis q. de valore [illegible] testamenti minus solemni, et [illegible] in foro conscientiae, [illegible]
[illegible] affirmant huiusmodi [illegible] pone [illegible] retinere, [illegible]
[illegible] fideicommissa, et legata, [illegible] fideicommissa [illegible], [illegible]
[illegible] obligatus [illegible] in foro conscientiae, etiam [illegible] diu [illegible],
[illegible] licet [illegible] fundamentis et auctoritatibus [illegible], [illegible] placet [illegible]
[illegible] Cornet [illegible] deliberata [illegible], et [illegible] quomodo [illegible]

[illegible]

solemnitates adhiberentur, quales per [illegible] Humanam [illegible] solemnitates requiruntur in testamentis, aliisque [illegible] [illegible] [illegible] decernunt inutiles [illegible] [illegible] solemnia [illegible] [illegible] [illegible] [illegible] [illegible] valeat [illegible] [illegible] [illegible] [illegible] [illegible] nihil [illegible] [illegible] tollerent [illegible] naturalis [illegible] obligatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pluribus de communi [illegible] [illegible] Medina de rest. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de legibus [illegible] 10 [illegible] 4 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 27 [illegible] [illegible] [illegible]

= Ista sufficiant. =

Articulus 37 De lege penali

= [illegible] quatenus obliget ad [illegible] [illegible] =
= [illegible] [illegible] lex 4. [illegible] aliis [illegible] [illegible]. =

Hucusque actum est de obligatione legis humanae in foro conscientiae quoad culpam, nunc expedit tractare de obligatione eiusdem legis quoad poenam tractare, [illegible] [illegible] poenalis violatores ita in foro conscientiae [illegible] ut ad poenam [illegible] [illegible] [illegible] teneantur absque ulla judicis [illegible] aut declaratione [illegible] [illegible] utilis, atque difficilis est ut Alphonsus de Castro [illegible] sane doctus [illegible] duos integros libros ediderit de lege poenali. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] posse [illegible] [illegible] [illegible] obligare in conscientia subditos delinquentes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 12 [illegible] [illegible] [illegible] [illegible] [illegible] 6. art. 6. et [illegible] 4. [illegible] art. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quos refert, [illegible] [illegible] [illegible] [illegible] [illegible] 9. [illegible] 25. moventur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aliquis [illegible] excedit [illegible] [illegible]. = [illegible] [illegible] [illegible] [illegible] ad observantiam legis [illegible] [illegible] judicis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] obligare [illegible] [illegible] [illegible] [illegible] judex, [illegible] obligare illum ut poenam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. =

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 27 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] docemur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] judicia, infamia, vel accusatio [illegible] lex 4 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] regulariter ab omnibus observandae [illegible] Humani = [illegible] sicut [illegible] [illegible] admittere [illegible] de legibus [illegible] [illegible]. =

[illegible] [illegible] legis [illegible] [illegible]

[illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

displicet [illegible] in illis quia [illegible] fundam[entum] [illegible]

[illegible]

referuntur [illegible]

lo ipso, vel [illegible]

fundam[entum] [illegible]

.n.° 3.

Verum hæc negatiua[m] displicet [illegible], et proinde [illegible] nititur fundam[en]tum videtur, [illegible], quippe [illegible] foro [illegible] aliquae similes [illegible] [illegible] demonstrationis, et iudicij externi, [illegible] accommodantur; [illegible] quis obligatur facto indemnatur in foro [illegible] externo, sed in foro conscientiæ, atque [illegible] accusari, audiri et conuinci [illegible] modo certum [illegible] qui sibi conscius delicti [illegible] sua conscientia accusari, [illegible] aliquam excusat[ionem] habet audiri, et denique [illegible] rationabilis [illegible] apparet, ut [illegible] Paulo ad Romanos cap. 2. [illegible] testimonium reddente illis conscientia ipsorum, et inter se inuicem cogitationibus accusantibus [illegible] naturam [illegible] ut [illegible] in conscientia obligetur, ac [illegible] inconueniens [illegible] Deus et iudex, [illegible], [illegible] conscientia [illegible] iudicij [illegible] obtineat. = [illegible] licet regulariter iudex [illegible] debeat ad [illegible] legislator potest adhibere aliquam [illegible] in [illegible] casibus in quibus [illegible] iudex fuerit sufficiens =

n.° 4

Nec magis obstant [illegible] authores quia [illegible] tantum [illegible] fori interioris loquuntur, [illegible] in foro conscientiæ [illegible] [illegible] ut infra videbimus, [illegible] negat legislatorem obligare posse in foro [illegible] ante iudicis [illegible]. nec hoc resultat [illegible] dicat [illegible] leges humanas penales = [illegible] prouenit [illegible] excepta [illegible] tradit, [illegible] irregularitatis [illegible] ante [illegible], [illegible] cap. [illegible] 20 de [illegible] beneficij obligat ipso facto in conscientia [illegible] cap. licet 14 de elect. lib. 6. [illegible] tradit [illegible] cap. 23. n.° 67 et 110, et cap. 25. n.° 118, [illegible] [illegible] [illegible] Trid. sess. 25. de reformat. cap. 20, et denique pœna [illegible] ipso facto obligat hæreticum cap. Cum secundum leges de hæreticis lib. 6. [illegible] [illegible] post [illegible] de donationibus, ut [illegible] =

n.° 5

Quare succedit alia sententia superiori contraria, quæ habet [illegible] [illegible] legem humanam posse obligare in conscientia [illegible] ante [illegible], et ad [illegible] quamcunque grauem exequendam [illegible] requirat [illegible] executione [illegible] rei, excepta [illegible] [illegible] delinquente exerceretur, veluti occidere [illegible] seipsum, [illegible] tradit [illegible] in summa [illegible] Cordoua in summa lib. 1. q. 36. Castro de lege pœnali lib. 2. [illegible] cap. 4. 5. et 5 et lib. 2. de iusta hæreticorum punit. cap. 6. [illegible] [illegible] obligare posse ad quamcunque pœnam [illegible] grauissimam, qualis est [illegible] bonorum amissio, et delinquentem teneri tradere [illegible] fisco [illegible] ante [illegible] declaratoriam, [illegible] generalis [illegible] proposita [illegible] [illegible], [illegible], ut post [illegible] in cap. [illegible], et in cap. [illegible] de elect. lib. 6. et [illegible] multorum [illegible] Panormitanus, et Felinus in cap. [illegible] [illegible] ubi [illegible] [illegible] [illegible], [illegible] in thesauro [illegible] conscientiæ lib. 3. cap. 9. et alij plures quos refert et sequitur [illegible] de legibus [illegible] 15. [illegible] =

n.° 6.

Pro qua [illegible] videntur facere fundamenta, et rationes quibus [illegible] [illegible] negatiuam impugnabimus, [illegible], quæ diligenter [illegible] ponunt Castro, et [illegible] citatis, et [illegible] Molina in [illegible] [illegible] de legibus [illegible] [illegible] iudex [illegible] ad aliquam pœnam, reus que tenetur in foro conscientiæ [illegible] [illegible] obligare, et [illegible] ad pœnam [illegible] foro soluendam, [illegible] authoritatis [illegible], quam iudex, atque [illegible] quemadmodum [illegible] legislatorem [illegible] legem [illegible] facere aliquid sub pœna peccati mortalis, poterit etiam [illegible] legem sub pœnalibus [illegible] [illegible] in casu [illegible] aliquam = [illegible] [illegible] obligare in foro conscientiæ [illegible] soluendas sine aliqua iudicis [illegible], [illegible]

tor poterit

potenti [illegible] leges modo obligare: quia [illegible] inferendae [illegible] superior [illegible] inferiori quam inferiori [illegible]. = Sed hic et alia fundamenta ab Alphonso de Castro [illegible] adducta [illegible] tantur [illegible] de Catholicis institutionibus cap. 9. n. 192, et a Suarez [illegible] cap. 5. n. 3. et a Molina n. 3. Considerantibus deinceps id quod Castro dicit [illegible], [illegible] in conscientia [illegible] verum esse, tum quia Consuetudo Contrarium ostendit, tum quia nullus vir, aut [illegible] obligavit huiusmodi delinquentes ad [illegible] [illegible] nec [illegible] [illegible] cap. Cum secundum leges de haereticis lib. 6. =

3. [illegible]

n. 7

Quaeritur 7. Succedit [illegible] [illegible] quid [illegible] [illegible] [illegible] quaedam [illegible] poena, [illegible], nec requirit actus, seu executionem hominis, velut inhabilitatio personarum, privatio [illegible] actiu, [illegible], excommunicatio, alia vero quae requirunt aliquam hominis executionem qualis est solutio pecuniae, vel aliquid simile, [illegible] docent [illegible] poenas per legem ita infligi [illegible] transgressor nullam expectata [illegible] judicis [illegible] obligatur maneat ad illas servandas, posteriores vero minime [illegible] quod judicis [illegible] et pronunciatio interveniat, [illegible] [illegible] [illegible] in manuali cap. 27. n. 63, et cap. 5. n. 117. [illegible] lib. 9. n. 119 [illegible], [illegible] 1. t. inst. moral. lib. 5. cap. 7. [illegible] tract. 4. cap. 5. n. 3. et alij plures quos refert, et sequitur Diana 1. p. tract. 10. resolut. 27. = [illegible] quod [illegible] [illegible] [illegible] [illegible], ubi non est necessaria executio [illegible], [illegible] expectatur judicis [illegible] [illegible] in legibus [illegible] excommunicationis, suspensionis, [illegible] [illegible] cap. 1. de [illegible] quamprimum [illegible] [illegible] adulterium, cap. [illegible] de cohabit. Clericorum, et [illegible] Trid. sess. 25. cap. 14 de reformat. [illegible] membris [illegible] [illegible], quia [illegible] executio [illegible] in [illegible] seu parte dependenter a judice [illegible] [illegible] legis [illegible] nullus obligari valet nisi ut [illegible] a judice per suam [illegible], [illegible], aut [illegible] [illegible] [illegible], nec talis [illegible] in [illegible] legislatoris, [illegible] [illegible] gravibus, [illegible] [illegible], [illegible] [illegible] grave [illegible]. C. [illegible] ut [illegible] lib. 4 de leg. q. 10. art. [illegible] [illegible] [illegible] [illegible] refert. =

n. 8.

Expedita itaque [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], vel [illegible] Universitatis vel Collegij privantur ipso facto voce activa, et passiva teneatur in conscientia [illegible] [illegible]. In qua quaestione negativam [illegible] defendit [illegible] lib. 1. de [illegible] q. 6. art. 6 [illegible] 47. Molina [illegible] 2. disp. [illegible] n. [illegible], et alij plures, et [illegible] [illegible] [illegible] [illegible] [illegible] privat rebus suis, ac [illegible] debet [illegible] ante [illegible] [illegible], aliter [illegible] [illegible] [illegible] [illegible] declaratus [illegible], quoniam privat bonis [illegible]. = 2. [illegible] [illegible] statuta huiusmodi [illegible] [illegible] indicant [illegible] [illegible], ut in statutis [illegible] Universitatis, sed [illegible] statuta [illegible] imponentia [illegible] activa, [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] requirunt [illegible] transgressores [illegible], [illegible], aut [illegible] delicto, [illegible] [illegible]. 3. denique [illegible] [illegible] tradidimus [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et in judicio improbabile [illegible], [illegible] statuta [illegible] obligant ante [illegible] declaratoriam. =

n. 9.

Confirmatur [illegible] negativam [illegible] [illegible] probabilior [illegible], et [illegible] conformior [illegible] dicentium huiusmodi leges et statuta [illegible], et Collegiorum obligare in conscientia [illegible] [illegible], [illegible] violator statuti imponentis poenam inhabilitatis ipso facto [illegible] teneatur [illegible] abstinere vel [illegible], vel [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] post plures [illegible] Villalobos [illegible] [illegible] tract. 24 dubio 25. n. 4. et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] privatio [illegible] voci activae et passivae [illegible] [illegible] privat, [illegible], ut [illegible] [illegible] [illegible] [illegible]

ut statuitur extat in cap. ult. de excessibus praelatorum, cap. quia diversitatem de concessione praebendae, [illegible] de clericis [illegible] cap. unico § 1° ut lite pendente [illegible] 6. clerici [illegible] qualitate [illegible]. Deinde quia [illegible], et [illegible] Universitas Collegii [illegible] quibus subditi sub talibus [illegible] se obligare voluerunt, [illegible] obligant ad subeundam poenam [illegible] antecedenter [illegible] non habeatur [illegible] qualitas, [illegible] in foro conscientiae obligant [illegible] =

n.° 10

Nec tamen quidquam obstant [illegible] criminaliter, ad quod quid sit de [illegible] in legibus [illegible] vel privationis [illegible], [illegible] privare [illegible] a [illegible] vel communitate acceptis, vel accipiendis, [illegible] = ad [illegible] dicimus [illegible] [illegible] tradit, et [illegible]. = Nec denique obstat [illegible] relatae, quod dicimus procedit [illegible] in foro interiori, [illegible] debet [illegible] ut docent [illegible] cap. 9 n.° 11 [illegible] 15. sect. 3 n.° 44. ubi [illegible] privationis esse observandam [illegible] in [illegible] [illegible], quidem ad propriam [illegible] [illegible] obligare, tametsi [illegible] delinquentis [illegible], aut aliter [illegible] =

n.° 11

De secundo est investigare an illegitimus [illegible] incurrit et [illegible] ad beneficium obtinendum, [illegible] fructus [illegible] ut in foro conscientiae, [illegible] repetat illos restituere. In quo dubio et controversia affirmative respondent [illegible] n.° 1. Navarrus in manuali cap. 27. n.° 251. [illegible] 2. [illegible] 22 n.° 120 et alij plures quos refert et sequitur [illegible] in suo thesauro [illegible] 6. cap. 20. n.° 5. [illegible] quia irregularitas [illegible] in foro [illegible] ipso facto. Deinde [illegible] cap. [illegible] de clericis [illegible] 54 de [illegible] cap. [illegible] de [illegible], et qualitate, quibus [illegible] et obten[illegible] irregularitate in [illegible] beneficij [illegible] collatio [illegible] valide [illegible]. [illegible] cap. 20 n.° 5. Villalobos [illegible] alij plures quos refert et sequitur [illegible] irregularitate [illegible] =

n.° 12

[illegible] probabilis, [illegible] Collatus beneficij incurrit irregularitatem [illegible] beneficio, [illegible] irrita [illegible] homicidij orta [illegible] ipso facto, sed mediante judicio [illegible] cap. clericis 6. [illegible] vel [illegible] irregularitas [illegible] irregularitatis [illegible] ante [illegible] beneficij [illegible] omnino ad illud [illegible] Colla[illegible] sit nullius momenti. Nec [illegible] quia duntaxat [illegible] [illegible], nec denique [illegible] cap. [illegible] de [illegible] et qualitate, [illegible] irregularitate [illegible], atque [illegible] ad irregularitatem. = [illegible] [illegible] sect. 2 n.° 10 [illegible] 8 n.° 6. [illegible] de irreg[illegible] [illegible] n.° [illegible], et alij plures quos refert, et sequitur [illegible] n.° 10 [illegible]

n.° 13

[illegible] obligat [illegible] in foro [illegible]

[Left margin notes:]

[illegible]

[illegible]

aqui lo dexe =

[illegible] requirit actus.

ante sententiam [illegible] ut [illegible] diximus, [illegible] regenda [illegible] potestas legislatoris quia potest, si velit obligare in conscientia [illegible] legem poenalem ad solvendam poenam ante [illegible] judicis [illegible] si aliunde conveniat [illegible] aequitas, et poena sit moderata, nam cum legislator [illegible] non solum ad sustinendam poenam sed etiam ad aliquid agendum, dummodo poenalis actio [illegible] ab ipso reo exerceri valeat, et [illegible] sit nimis acerba, et inhumana, potest [illegible] legem [illegible] tanta [illegible] obliget absque alia declaratione [illegible] intelligitur [illegible] [illegible] non [illegible]. Deinde facit [illegible] secundum moralem aestimationem [illegible] homo certam pecuniae quantitatem solvere quam [illegible] [illegible] activa et passiva, sed [illegible] privationis poenae [illegible] per se [illegible], ut [illegible] diximus [illegible] [illegible] si [illegible] [illegible]; [illegible] Navarrus in manuali cap. 23. n. 7. [illegible] 2. [illegible] lib. 7 cap. 9. 8. n. 10 [illegible] institutionum moralium lib. 5. cap. 7. q. 6. [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible].

N.° 4

Ex hac doctrina veniunt intelligenda [illegible] [illegible] 14 cap. Certe 34 et cap. [illegible] 35 de electione lib. 6. et [illegible] Trid. sess. 7. cap. 3. de reformat. et sess. 24 cap. 12, ubi statuitur recipientem beneficium parochiale sive sacerdotium [illegible] ordinatur [illegible] [illegible] in conscientia ad illud dimittendum etiam [illegible] judicis [illegible]. Idem intelligitur ad [illegible] [illegible] sex menses a [illegible] sua non [illegible] Trid. sess. 23. cap. 2. de reformat., et ad beneficiarios qui in [illegible] percipiunt tempus [illegible], [illegible] pro rata absentiae [illegible] faciant, nec illos tuta conscientia retineant etiam judicis declaratione [illegible] Trid. sess. [illegible] de reformat. cap. [illegible]. Similiter, et [illegible] beneficiarios [illegible] recitantes horas canonicas [illegible] faciunt fructus suos et [illegible] acceperint tenentur pro rata restituere [illegible] motu proprio Pii Quinti edito anno 1571 [illegible], ex [illegible] Lateranensi Concilio [illegible] Navarrus in manuali cap. 25. n. 122 et aliis [illegible] Diana 1.a p. tract. 12 de horis canonicis [illegible] [illegible], [illegible] [illegible] [illegible] inter alias difficultates [illegible] litteras de [illegible], et in cap. [illegible] lib. 6. =

N.° 5

Procedit etiam ex dictis intelligendum ad Innocentii 4.i decretum [illegible] in Concilio Lugdunensi [illegible] cap. 1. de homicidio lib. 6. ubi statuitur quod quaelibet persona cuiuscumque fuerit dignitatis ecclesiasticae, vel saecularis [illegible] assassinos interfecerit, aut interfici mandaverit, quamvis mors [illegible] [illegible], vel eosdem assassinos receperit, occultaverit, aut defenderit, excommunicationis, aut depositionis a dignitate honore officio, et beneficio incurrat [illegible] [illegible] liberaliter conferantur quorum [illegible] auctoritate [illegible] obliget in foro conscientiae ante judicis [illegible] declaratoriam ut docet Navarrus [illegible] cap. 23. n. 67. = [illegible] quod quamvis stant [illegible] [illegible] probabilius [illegible] aliquem [illegible] Concilio [illegible] excommunicationis, seu depositionis, aut [illegible] [illegible] [illegible], quia [illegible] [illegible] [illegible]. [illegible] declaratoria post crimen [illegible] [illegible] [illegible] requiri [illegible] aliquam declaratoriam, [illegible] probabilius [illegible] constat de crimine, et hoc quidem [illegible] [illegible] amissionis beneficii in foro conscientiae, sed ut [illegible] foro [illegible], et alius ad quem collatio pertineat illud conferat, ut docent Suarez de censuris disp. 44 sect. 3. n. 6. [illegible] [illegible] [illegible] cap. 20. n. 9. et alii [illegible] [illegible], [illegible] [illegible] in Collect. ad 67. col. [illegible] =

N.° 6

Similiter intelligendum venit [illegible] [illegible] 11 [illegible], et [illegible] de rescriptis lib. 6 ubi Bonifacius VIII [illegible] judicibus delegatis [illegible] a litigantibus [illegible] [illegible], [illegible] liberaliter oblata, et [illegible] [illegible] [illegible] fecerint [illegible] etiam non obstante quod [illegible] [illegible] faciat, et [illegible] [illegible] declaratoria [illegible] [illegible] [illegible] [illegible] [illegible] obliget [illegible] in conscientia [illegible] declaratoria, [illegible]

Conditionem [illegible] [illegible].

[illegible] ad [illegible] in cap. 1.° de homicidio lib. 6.

[illegible] in cap. [illegible] 11 de rescriptis lib. 6.

Ut docent Molina de Just. et iure disp. 688 n. 12 Vasquez [illegible] c. 87 [illegible] n. 6. [illegible] de [illegible] [illegible] [illegible] 17. [illegible] [illegible] 102 [illegible] [illegible] valde [illegible] [illegible] ad [illegible] [illegible] [illegible] n. 6. =

n. 17. Deinde deducitur [illegible] ad [illegible] [illegible] [illegible] obligare in foro conscientiae ante sententiam [illegible], quippe ut [illegible] communiter fatentur [illegible] reus et [illegible] ante [illegible] [illegible] excludere [illegible] [illegible] [illegible] licet [illegible] [illegible] habere [illegible] [illegible] [illegible] potestas [illegible] [illegible] [illegible] [illegible] licet [illegible] [illegible] [illegible] conscientia ad solutionem [illegible] ante [illegible] judicis [illegible] probabilius, atque [illegible] in tali casu [illegible] potent absolvere transgressores quousque [illegible] solvat, [illegible] quia [illegible] [illegible] extendat, sed quia [illegible] [illegible] habet, et tenetur in conscientia solvere, [illegible] in terminis legum nostrae Hispaniae, de quibus extat [illegible] l. 56 [illegible] [illegible] recopilationis [illegible] [illegible] [illegible] ministros [illegible] accipientes aliquid ultra [illegible] taxatum [illegible] [illegible] docent [illegible] [illegible] [illegible] n. 10. [illegible] Sanchez [illegible] consiliorum [illegible] unico dubio 29, ubi late, et diligenter [illegible] tradunt, [illegible] examinant. =

n. 18. [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] de [illegible] lib. 6. Ubi Pontifex Bonifacius [illegible] quidam [illegible] crimina [illegible] imponitur [illegible] [illegible] bonorum, veluti crimen laesae maiestatis, [illegible] [illegible] [illegible] ad alias provincias [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dubitarent [illegible] [illegible] [illegible] declaratoriam [illegible] [illegible] de Castro [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] habere [illegible] sententiam judicis careat dominio, et [illegible] [illegible] bonorum [illegible] [illegible] [illegible] [illegible] commissum crimen [illegible] [illegible] [illegible] bonorum dominium [illegible] [illegible] [illegible] [illegible] voluntas domini. Quidem [illegible] licet fiscus [illegible] [illegible] ante [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] bona, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ante [illegible] nihil [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] respondebat. =

n. 19. Verumtamen dicimus [illegible] nec carere dominio, nec [illegible] bonorum ante [illegible] judicis, [illegible] [illegible] [illegible] retinere, et administrare, [illegible] [illegible] [illegible] tradere fisco, vel [illegible] [illegible] [illegible] [illegible] accusatores, [illegible] doctrina [illegible] [illegible] [illegible] [illegible] [illegible] de haereticis lib. 6. ubi [illegible] bona haeretici [illegible] criminis [illegible] confiscata [illegible] [illegible] ante judicis [illegible], [illegible] [illegible] [illegible] bona delinquentis [illegible] fisco obligata [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] haereditatis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] judicii [illegible] [illegible] [illegible] [illegible] [illegible] bona fisco applicanda [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Valsquez, [illegible] [illegible] [illegible] gravioribus, et capitalibus criminibus [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Victoria [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 5. [illegible] [illegible] 9. n. 447. [illegible] [illegible] Sanchez, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Quid de [illegible] qui [illegible]

n.° 20.

Ex quo provenit quod si Hereticus resipiscat ante judicium et ... vel ... ita ut ... sit [illegible] ... bonorum, poterit illa retinere adeout si illa ipsa tradiderit et fisco imposuerit fiscus ... in conscientia recuperare bona ... , ... prohibebit ... ante judicatorem ... ratione ... indicio ... eaundem leges de hereticis ... et indubio leges generales ... ita ... ut ... obligentur in conscientia ad poenam ... ipsos solvendo, sive ... quandam antequam super crimine condemnatio ... consequuta sit ut eleganter ... dicit Thomas Sanches lib. 2 [illegible] cap. 22 n.° 7. Lessius de just. et jure lib. 2 cap. 29 n.° 63. ... delinquentem in conscientia teneri ad ... bona male animo in fraudem fisci ... Suares ubi ... de catholica ... lib. ... cap. 9 n.° 82 ... Sanches ... cap. 22 n.° 13 ubi inter alia ... tradunt ... fiscus debeat ... illorum bonorum ... qui bona fide emerat post commissum crimen a venditore ... ipsos videri possunt ... =

n.° 21.

Deinde ... doctrina a nobis proposita procedere ... in ... conventionalibus ... ad ... quippe ... in ... solvenda in foro conscientiae in procedente ... judicis ut docent Lessius ... lib. 2 de just. ... cap. 20 dubio 15 n.° 36. Sanches lib. ... de matrimonio ... 24 n.° 4 Vasques ... nisi quod imponeretur ... in ... facti interesse, aut damni ... tunc ... in foro conscientiae solvenda ... ante judicium ... testamento ... regulariter tenendo ... imposita per testatorem ... velut ... si ... vel ... et ea ... agat, ut eleganter animadvertit Diana ... tractatu de legibus resolutione ... Ubi dicit probabilem opinionem existimantium ... fuerit in ... condemnetur ad poenam ... imposita a lege ... restituere ... velut si fiscus ... vel judex ... condemnet ad poenam ... ipsis, si Custodes ... vel ... in manifesto crimine ... imponenda pecuniaria ... vel ... in judicio ... vel ... aliquid ... manifestatio ... condemnatio ad poenam vel multam ... in conscientia ... vel a delinquente ante ... condemnatio ... =

n.° 22.

... videtur, quia fiscus ... ... in accusando, condemnando, et manifestando crimina delinquentium ... et immediate, directe ... condemnatio ... ad ... ut docent ... de just. et jure ... art. 6. Molina ... tract. ... Reginaldus in ... n.° 293. Et hoc observatur ... pecuniariis ... in foro conscientiae ... custodes ... ad ... populus, aut ... in ... ut tradunt Sanches, Suares, et Vasques ... obligare in foro conscientiae ad ... in ... et ... in conscientia, aut ... et ... ut ... obliquitur ... lib. ... q. 95 ... art. 6 ... =

n.o 23 — Hic inquires: Venit [illegible] debeat observari in [illegible] Corporalib[us]

Pœnis Corporalibus. [illegible]

art. Ordinarius port. [illegible], quae sunt [illegible] teneatur [illegible] Velut illam [illegible] relinquat diversis [illegible], [illegible] tamen [illegible] habet [illegible] executione [illegible] Mortis, mutilationis, aliisque [illegible] acerbis, sed tantum [illegible] [illegible] resistere [illegible] [illegible] exequenti, [illegible] quia [illegible] bono [illegible] expedit hanc obligationem [illegible] imponere delinquenti [illegible] Sit [illegible] Vindex [illegible] tam acerbis, quippe [illegible] fit bono [illegible] debit[illegible] Libo si [illegible] patienter [illegible] [illegible] ad finem [illegible] n.o 41. [illegible] de [illegible] [illegible] punct. 7. § 2. n.o 29. [illegible] obligari [illegible] Veneni [illegible] similia, [illegible] [illegible] Castro 8. puncto 4. n.o 2. [illegible] [illegible] [illegible] potest [illegible] Videtur, [illegible] descendere [illegible] Collis ad [illegible] aut [illegible] laqueum [illegible] [illegible] [illegible] [illegible] poenae Corporales [illegible] acerbis, nec [illegible] [illegible] obligari ad illas [illegible] ad [illegible] patiendas, exequendas, [illegible] licite [illegible] [illegible] et alia similia [illegible] Thom. [illegible] Castro de lege poenali [illegible]

[illegible] n.o 23 art. [illegible]

Denique animadvertimus [illegible] [illegible] Licitum [illegible] sibi [illegible] [illegible] [illegible] affirmamus [illegible] licere [illegible] [illegible] [illegible] [illegible] in Carcere, [illegible] nullum [illegible] [illegible] [illegible] Carceri [illegible] [illegible] [illegible] [illegible] [illegible] Custodes, [illegible] liber [illegible] [illegible] [illegible] Marianus [illegible] n.o 63 ad 47 [illegible] [illegible] Vasquez [illegible] 164 [illegible] [illegible] mortem, vel mutilatio [illegible] [illegible] [illegible] [illegible] Carceribus [illegible] [illegible] [illegible] nulla lege [illegible] [illegible] [illegible] mortis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Licere unicuique [illegible] [illegible] [illegible]

[illegible]

Sufficiant de [illegible]
[illegible]
[illegible]

Articulus 3. De iis Personis Qu[ae] obligantur lege humana ad expositionem [illegible]
3.o [illegible]

Omnis homo [illegible] obligatur.

Postquam iam locuti sumus de Obligatione legis humanae [illegible] [illegible] [illegible] quibus obligantur, [illegible] exponere [illegible] quae personae in [illegible] Obligatione Continentur [illegible] [illegible] explicemus, tamquam de fide Catholica statuimus: Omnis homo Viator [illegible] [illegible] Sanctus, et perfectus sit, [illegible] lege humana obligari, ita [illegible] Canon in Concilio Trid. [illegible] 11. ~~[illegible]~~ [illegible] [illegible] Libros [illegible] observatione mandatorum [illegible] [illegible] ex illo [illegible] Petri subiecti [illegible] omni humanae Creaturae propter Deum, [illegible] Pauli [illegible] Rom. cap. 13. ubi omnis anima potestatibus sublimioribus subdita sit, [illegible] [illegible] [illegible] anima [illegible] [illegible], [illegible] [illegible] supremi Principes, et Rectores Communit[atum] [illegible] [illegible] [illegible] quibus leges obligent in Conscientia [illegible] omnis homo [illegible]

Balbo in cap. 2º de sponsalibus nº 99. Belarminus lib. 2 de Rom. Pont. cap. 29 vers. 37 arg. 3.

quantumque sanctus [illegible] sit, potest lege humana obligari ita tradit Suares lib. [illegible] de legibus cap. 1 nº 7 cum seqq. [illegible] lib. 5 de [illegible] et gratia, Angelicus Praeceptor D. Thomas 1. 2. q. 96 art. 5º [illegible] Tapia in sua Catena morali l. 1 lib. 4 de legibus q. 16 art. 1º nº 2º [illegible], et acriter [illegible] quorundam hereticorum errores [illegible] doctrinam Lutherus [illegible].

nº 2

Supponimus [illegible] quamlibet legem humanam habentem veram rationem et conditiones legis obligare [illegible] qui [illegible] seu membra communitatis pro qua lex fertur, [illegible] regulariter in communitate feratur, communitas que constat [illegible] membris merito illius obligatio ad singulos [illegible] Communitatis [illegible] descendit. [illegible] obligatio [illegible] extendatur ad eos qui [illegible] extra propriam communitatem, quoniam nulla potentia [illegible] extra suos limites, et terminos operatur, sed lex oritur, et habet vim obligandi a potestate legislatoris [illegible] limitatur ad communitatem cuius est superior et rector [illegible] extendi [illegible] obligatio ad eos qui sunt extra communitatem [illegible] fertur. [illegible] authoritas Divi Pauli 1. ad Corinthios c. 5. Quid enim mihi de his qui foris sunt iudicare, et aliis pluribus [illegible] Bonifacii [illegible] cap. 1º de Constit. lib. 6. Cum [illegible] quos [illegible] qui foris [illegible] extra [illegible], subditos [illegible] extra [illegible] minime ligari noscuntur, cum extra territorium ius dicenti impune non pareatur [illegible] tradunt Thomas Sanchez lib. [illegible] et alii quos refert, et sequitur Tapia [illegible] art. 1º nº 3 et 4º =

nº 3.

[illegible] privilegium alicuius Regni vel communitatis, aut territorii obligent subditos [illegible] versantur extra territorium, quamvis [illegible] affirmative respondeant, verum indicamus [illegible] subditos minime obligare, quod probatur [illegible] subditos obligare [illegible] quia unumquodque legislatoris [illegible] ferenda extra territorium cum habeat suos limites ut iam [illegible] dicendum [illegible] territorium subditi [illegible] loco exempto [illegible] quia [illegible] in loco exempto est extra territorium [illegible] liter, [illegible] loca [illegible] debent intelligi Conventus religiosorum exemptorum ab [illegible] quia [illegible] personae religiosae sint exemptae, [illegible] loca [illegible] exempta cum [illegible] ad [illegible] localiter in [illegible] specialiter [illegible], et ideo in huiusmodi Conventibus [illegible] celebrare [illegible] et alia similia facere, [illegible] subditi [illegible] libere [illegible] exempti in legibus [illegible], loca igitur exempta [illegible] legibus sunt [illegible] subiecti [illegible] exempli gratia, [illegible] parochialis [illegible] extra muros [illegible] tamquam [illegible] Ordinario [illegible] ita docent [illegible] in cap. [illegible] nº 3 [illegible] Suares lib. 3 de legibus cap. [illegible] lib. 5 de [illegible] cap. 7 nº 29 et [illegible] quos refert, et sequitur [illegible] tract. 10 resolut. [illegible] =

nº 4

Ex qua doctrina [illegible] quaestio tur [illegible] parochianum alterius [illegible] licentia ordinare, nec quolibet [illegible] iudicare, [illegible] parochiis, et [illegible] parochianus [illegible] alterius parochianum iudicare praesumat, [illegible] Ordinare [illegible] iudicare [illegible] de temporibus ordinationum, cap. 2. 3 et 4. [illegible] lib. 6. cap. 1 et [illegible] Cuius doctrinae [illegible] termini [illegible] melius oves suas custodiant, [illegible] cap. [illegible] 3 [illegible] alterius usurpans [illegible] extra [illegible] cap. [illegible] ordinari [illegible] ordines [illegible] valebit [illegible] suspensionem incurrit [illegible] et recipiens, alter [illegible]

cum [illegible]. alter [illegible] in suppl. Collationum [illegible] eleganter tradunt [illegible] antiquiores repetentes [illegible] et usque ad [illegible] cap. 3. de parrochijs et alienis parrochianis Thomas Sanchez lib. 7. moralium [illegible] dubio [illegible] [illegible] [illegible] dispens. sect. [illegible] n. 13 [illegible] [illegible] lib. 5. de [illegible] et [illegible] 4 art. 1. Salcedo in praxi Canonica c. 26. et alij plures [illegible] et sequitur Barbosa de potestate [illegible] allegat. 4 [illegible] =

Haec Veritas [illegible] in nulla [illegible] Pontificij juris decreto [illegible]

n. 5.

Videtur, et in primis [illegible] Videtur auth[illegible] [illegible] Urbani [illegible] extat in capitulo 9. 9. [illegible] ponitur Archiepiscopus lugdunensis [illegible] ab Urbano [illegible] in suis Ordinibus tolerare quosdam Clericos suos ab alijs episcopis ordinatos, et [illegible] [illegible] facere [illegible] [illegible] si sint boni [illegible] ad quod adducit exemplum Sancti Joannis Chrysostomi qui quosdam Clericos ordinatos a Sancto Epiphanio [illegible] quod Sanctus vir omnino [illegible] fecisset [illegible] fore [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] in recta dicimus [illegible] posse episcopum Ordinare eos qui sui subditi non sunt. = [illegible] tres difficultates adeo graues [illegible] [illegible] Varias adducunt solutiones. Mainbus lib. 4 de irregularit. cap. 2. et Salcedo in praxi Canonica c. 26, [illegible] alij [illegible] relati existimant [illegible] auth. ideo potuisse [illegible] subdito ordinatos [illegible] [illegible] quia erat [illegible] ratificationis [illegible] [illegible] perinde ac si ab ipso fuissent Collati [illegible] sufficeret [illegible] [illegible] [illegible] habere [illegible] [illegible] [illegible] cap. [illegible] de R. J. lib. 6 [illegible] [illegible] [illegible] [illegible] tracto temporis convalescere [illegible] [illegible] ab initio [illegible] [illegible]. talis namque ordinatio [illegible] quoad executionem, aliasque namque daretur occasio episcopis ut hoc [illegible] colore alienos ad ordines promoverent, ex quo plurima [illegible] damna. Archidiaconus [illegible] [illegible] 3. [illegible] [illegible] decisus Correctus [illegible] quod adducit aliquas auth. postea statutum [illegible] [illegible] [illegible] [illegible] Correctio [illegible] debet [illegible] [illegible] [illegible] [illegible] [illegible]. Mandosius in regula Cancellariae [illegible] 4. n. 12 existimauit ideo [illegible] [illegible] Clericos ordinatos ab alieno episcopo admittendos, quia illi erant habiles et idonei [illegible] [illegible] licet [illegible] [illegible] [illegible] sufficit ad dissoluendas [illegible] difficultates. =

n. 6.

[illegible] his, et alijs solutionibus Omissis [illegible] [illegible] capitulo 9. [illegible] [illegible] asseri episcopum relaxare, et remittere [illegible] [illegible], hoc [illegible] facere [illegible] [illegible] adfuerit Pontificis [illegible] authoritas, quippe si accideret aliquem Ordinari a non suo episcopo ut ministret in ordinibus [illegible] [illegible] erit recurrere ad Romanum [illegible], ab eoque debet impetrari dispensationem [illegible] [illegible] et hoc debet facere antequam alium ordinem recipiat, vel beneficium conferatur, aliasque namque omnia postea inutilia erunt, quia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]; cap. [illegible] de presbitero in [illegible], cap. Clericos [illegible] 9. 1. Qua [illegible] [illegible] intelligendus [illegible] [illegible] difficilius [illegible] cap. Salonitanus [illegible] 4. 63. dist., ubi [illegible] [illegible] [illegible] de quibus [illegible] delictis illud unum fuit, se ordinatum fuisse inconsulto [illegible] superiori, [illegible] [illegible] remittitur, quoniam Romani Pontificis auth[illegible] ad fuit, et licet deficeret, posset episcopus [illegible] quia [illegible] [illegible] remittere [illegible] [illegible] [illegible], ut [illegible] [illegible] [illegible] [illegible]. Nec quidquam [illegible] [illegible] [illegible] illatam episcopo, [illegible] [illegible] [illegible], sicque in [illegible], [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] quod pecunia [illegible] erat [illegible], vel [illegible] [illegible] Missas Celebrarat, [illegible] remitteret, [illegible] [illegible] [illegible] antiquiores [illegible] [illegible] [illegible] [illegible] [illegible] plura [illegible] tradit [illegible] [illegible] [illegible] de [illegible] Ordine art. 5. [illegible] [illegible] =

n. 7

[illegible] superiori doctrinae opponi Videtur Textus certum [illegible] [illegible] relatum [illegible] [illegible] 29. de [illegible], ubi [illegible] [illegible] Vertebatur inter Abbatem Sancti Martini, et episcopum [illegible] super quibusdam decimis et alijs juribus spiritualibus Clericorum, et [illegible] ipsius monasterij, petebat [illegible] ut [illegible] [illegible] in quadam parrochia soluerent illi, [illegible] monasterio decimas de [illegible] [illegible] [illegible] [illegible], petebat [illegible] [illegible] Clerici [illegible] monasterij [illegible] [illegible] [illegible], olei, [illegible] [illegible], et quod [illegible] a ordinatis [illegible] [illegible], ad hoc [illegible] demonstrauit [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]; [illegible] adverso [illegible] [illegible] [illegible] ut decimas [illegible] [illegible] [illegible], et quod Clerici Cappellani [illegible] monasterij [illegible] sacrati et ordinati [illegible] reciperent [illegible]

[illegible] controversia audita, et intellecta mente [illegible] decrevit [illegible] quod [illegible] vasterij quod erat [illegible] vel [illegible] sacros ordines [illegible] a predicto episcopo, si fuerit Catholicus [illegible] voluerit accedere, aliquo [illegible] maluerint episcopo recipiendi [illegible] liberam habeant facultatem non obstante privilegio [illegible] Pontificij, [illegible] Constitutionibus [illegible] intelligatur nec obstante [illegible] mala fide aderat. Ecce difficultas [illegible] asserit [illegible] accedere debere pro receptione sacrorum ordinum [illegible] accipere minores ordines [illegible] in suo episcopo [illegible] alias [illegible] diceret [illegible] et sacros ordines [illegible] dicimus [illegible] posse conferre ordines nec maiores, nec minores [illegible] subditi [illegible] tanquam [illegible] hoc facere [illegible] legislativum. =

Pro [illegible] hac difficultate diluenda [illegible] adducere [illegible] ut [illegible] Joannes Andreas, [illegible], et Panormitanum [illegible] dicendum putamus [illegible] ad sacros ordines [illegible] fuisse [illegible] excludendos minores, et ut demonstraretur potestas, quam Abbates [illegible] habent, [illegible] posse conferre, cap. Cum contingat [illegible] et [illegible] cap. Abbates de privilegiis in 6, [illegible] tradit [illegible] de [illegible] Abbatis [illegible] quaesito [illegible] Cum [illegible] cap. [illegible] controversia inter episcopos et Abbates [illegible] receptione ordinum, [illegible] de sacris debet intelligi, de minoribus [illegible] poterat controverti. [illegible] Abbates [illegible] habeant [illegible] conferendi minores, ut [illegible] = Adhuc [illegible] remanet difficultas [illegible] in arbitrio, et potestate subditorum [illegible] Catholicus, vel [illegible] libere ordines conferre, [illegible] hoc [illegible] providere [illegible] qui catholicus [illegible], aut ut debet conferre [illegible] subditis [illegible] sicut pro [illegible] sacrorum [illegible] cap. [illegible] cap. ad apostolicas [illegible] de simonia [illegible] tradit [illegible] lib. 1 de [illegible] cap. [illegible] =

Denique [illegible] obstat [illegible] cap. ult. de temporibus ordinationum in 6, ubi statuitur episcopum non posse primam tonsuram conferre nec infanti, nec illiterato, nec coniugato, deficiente [illegible] licentia et authoritate, nisi infanti, aut coniugato religionem ingredientibus, [illegible] voluerit [illegible] episcopus [illegible] tonsuram conferre, ad [illegible] difficultas facile dissolvitur si dicamus mentem Pontificis [illegible] quemadmodum episcopus infanti, [illegible] tonsuram [illegible], nisi religionem ingredientibus, [illegible] conferret [illegible] proprius subditus deficiente sui superioris licentia, quam sensus [illegible] ad hoc [illegible] minores ordines [illegible] extendi ad minores [illegible] de [illegible] tonsuram [illegible] privilegiis clericalibus gaudere. = [illegible] cap. [illegible] infans ingredi possit religionem [illegible] difficile [illegible] Constitutionis [illegible] religionem [illegible] ad [illegible] advertamus [illegible] fieri [illegible], sed potius a patre nomine [illegible] tenebitur [illegible] adveniente legitima aetate [illegible] virtute [illegible] profitendi intelligitur, [illegible] intelligunt [illegible] cap. [illegible] cap. monachus [illegible] cap. 1 de desponsatione impuberum cap. [illegible] de conditionibus appositis, [illegible] defendens adducit Thomas Sanchez lib. 4 ad [illegible] de [illegible] cap. [illegible] =

Deinde explicandus venit [illegible] peregrinus qui divertunt ad alia loca [illegible] transitus, aut [illegible] tenentur servare leges, vel [illegible] quam illis in suo domicilio [illegible]. [illegible] peregrinos teneri ad [illegible] leges [illegible] Sabbato [illegible] Ambrosium

Chr[illegible] ; et ille ait : Cum Romam venio, Sabbato jejuno ; cum Mediolani sum non jejuno, sic et tu ad quam forte Ecclesiam veneris, ejus morem serva, ubi glossa ibid. Doctores adducit versus hos : Si fueris Romae, Romano vivito more, si fueris alibi, vivito sicut ibi. probaturque ex altera D. Augustini authoritate qua extat [illegible] quae sibi ejus moves hominum sunt flagitia pro morum diversitate vitanda, ut pacto inter [illegible] ty, aut Civitatis Consuetudine, vel Lege firmatum, nulla Civis, aut peregrini libidine violetur [illegible] omnis pars universo suo non congruens. Facit et idem Sanchez [illegible] relatus in cent. [illegible] ibi quisque rebus, vestibus utitur, quam se tenet habent mores eorum cum quibus vivit, aut intemperans, aut superstitiosus [illegible] hic [illegible] ubi debent [illegible] de muneribus, et honoribus ubi homines terra ad quam pergis, cape mores quos ibi cernis. Adducit et decisio Legis Regni in [illegible] ubi quando alguno fuere a Venecia, ò à Roma, ò à otro lugar se deve acordar en las buenas costumbres de aquellos con quien vive, ubi Gregorius Lopez in [illegible] otro Lugar, ait, conformando se illis quibus vivit. Denique probatur ratione quia publicum Civitatis bonum expostulat ut unius cujusque [illegible] Consuetudines observentur tam ab incolis, quam a peregrinis dum in loco sunt, hanc doctrinam [illegible] Cobb. tom. 4. var. resolut. cap. 20 n. 8. Navarrus in manuali cap. [illegible] et alii [illegible]

n. 11

Alter casus qui tanquam probabilis amplectendus est, peregrinos teneri in adstringi Legibus, et Consuetudinibus loci per quem transeunt, vel in quo per modum hospitis [illegible] ex causa scandalo, et quod illae obligant ratione domicilii, ex Sanchez [illegible] 19. § finali judiciis, ubi [illegible] viatores in [illegible] loci per quem transeunt, ut [illegible] ibi dum quotquot loca quis navigans, aut iter faciens [illegible] tot Locis se defendere, quia qui transit, aut tempore diverti ad locum dicitur moraliter in illo esse l. [illegible] 76 §. finali l. si ita [illegible] ff de legat. [illegible] adde de regularibus [illegible] Si ergo transeuntes dicuntur moraliter esse in illo Loco, [illegible] sequitur ut ipsius loci Leges observare adstringantur, quia solet in loco existentes obligat [illegible] Sanchez [illegible] ubi plures tam ex Theologis, quam ex moralistis refert, [illegible] [illegible] proposita [illegible] dicens [illegible] Deformitio, vel de sergentis animo majoris partem anni habitandi aliquo [illegible] in [illegible] moraliter [illegible]. =

n. 12

[illegible] quis ad fuerit in aliquo oppido [illegible] [illegible] legibus et consuetudinibus esse astrictum, quia [illegible] majorem partem anni sit habitaturus ibi, [illegible] sufficere ad constituendum domicilium simpliciter, sed quasi domicilium ad sacrandum [illegible] et volunt exemplo Ordinis sacrati, quemque hic qui ad aliquem locum accedit animo habitandi in illo per majorem partem anni tenetur a prima die accessus servare consuetudines, et leges illius Oppidi, quia ex tunc habet [illegible] requisitas, et ultra peregrinus observaberit cujuscunque Universitatis Scholastici, qui [illegible] adquirant domicilium in loco studii defectu animi perpetuo habitandi, sortiuntur [illegible] fori, [illegible] vivere secundum [illegible] Civitatis in qua illi habitant, et Universitas, [illegible] privilegia concedantur, valde enim rationi dissonum est scholasticos qui regulariter quinquennio, vel amplius in loco habitant, teneri illius Legibus, et Consuetudinibus, ut [illegible] ad [illegible] [illegible] Clerici de foro competenti, docent Paludanus in 4. dist. 15. [illegible] n. 24 [illegible] Domicilii 2. et 3. et alii plures quos refert et sequitur Thomas Sanchez loco [illegible] 8. 9. cum sequentibus. =

n. 13

Ergo superius [illegible] quae diximus peregrinos Legibus, et Consuetudinibus loci per quem transeunt teneri, triplicem patitur exceptionem. 1a est quoad contractuum solemnitates, nam quicunque res, et personae tenentur servare solemnitates [illegible] Legibus, et Consuetudinibus oppidi [illegible] [illegible] quilibet forum sortitur in loco [illegible], cap. finali de foro competenti, l. [illegible] [illegible] quaer. [illegible] §. [illegible] ff de [illegible] statutum [illegible] celebratis Consuetudines, et statuta loci [illegible] fecerint [illegible] Hospitii [illegible] illius [illegible] onus [illegible], et [illegible] [illegible] illius [illegible] quilibet teneatur [illegible] loci [illegible] servare, [illegible]

autem

Marginal notes: aq. 4a [illegible] | absoluta, | [illegible] | 3a exceptio [illegible]

Aucti. [illegible] ab hac regula excipiunt, rem sic [illegible] doctis [illegible] exigens [illegible], in quo id singulare est ut attendatur Matrimonii ubi [illegible] est initum, [illegible] illius in quo Vir domicilium habet, ut eleganter tradunt Simancha de catholicis institutionibus tit. 9. n°. 242, cum sequentibus Molina to. 2. disput. [illegible] tractatu 2 disp. [illegible] Merinin [illegible] tom. [illegible] n°. 78. Azevedo in l. [illegible] tit. 4 lib. 5. novae recopilationis n°. 5. et 6. [illegible] Gomez in l. 5. Tauri n°. 20, Cifuentes ibi q. n°. 23. et Burgos de Paz in d. l. 3a. n°. 307. [illegible] late de solemnitate [illegible] adhibenda [illegible] et [illegible] loci in quo fit, vel potius in quo contrahentes sunt [illegible] quod hac [illegible] deliberandum [illegible]. =

n°. 14

Secunda exceptio [illegible], quod legum transgressio [illegible] illius Oppidi, [illegible] peregrini illis tenentur, [illegible] aliquas leges prohibentes aliquid extrahi ex illo oppido, [illegible] pluribus [illegible] Covarrubias in l. 12. tit. 12. lib. 1°. novae recopilationis, et in l. 6. tit. 18. lib. 5. [illegible] recopilationis ubi varia [illegible] regnicolis [illegible] dum [illegible] regnum transeunt ut [illegible] Mexia in pragmatica tax. panis [illegible] n°. 80 cum sequentibus, Abendaño lib. 1°. de exequendis mandatis cap. 28. n°. 10. = 3a. exceptio [illegible] habeat locum in hominibus vagis qui nullam certam sedem habent, hi enim tenentur ad leges ad consuetudines loci in quo de facto reperiuntur, quia cum nullibi peculiare domicilium habeant, illud quoad omnia acquirunt ubicumque reperiuntur, alias [illegible] exempti ab omnibus statutis, et consuetudinibus, meliorisque essent conditionis ut [illegible] omnino exempti ab omni lege particulari et jurisdictionis, quam [illegible] alii qui vagi non sunt, quod absurdum est, cum huiusmodi exemptio soleat a Summo Pontifice, et supremis Principibus ut magnum privilegium raro aut nunquam concedi, ut docent Sanchez ubi [illegible] n°. 24. Soto in 4°. dist. 18. q. 4. art. [illegible] [illegible] tamen [illegible] Soto [illegible] art. [illegible], et alii plures quos refert et sequitur Diana [illegible] tractatu 10 resolut. 26. =

n°. 15.

Superiori exceptioni affinis [illegible] ullam urbem peregrinis [illegible] locum per modum transitus, et [illegible] confluentes teneantur [illegible] a proprio domicilio absunt servare leges, et [illegible] sui domicilii [illegible] loco in quo reperiuntur [illegible], quamvis [illegible] affirmativam [illegible] [illegible] obligantur [illegible] patriae legibus, quando illas [illegible], [illegible] videtur, cum illi adhuc proprie patriae cives sint, [illegible] dicantur [illegible] in l. [illegible] 76. §. finali ff. de leg. 3. et [illegible] qui [illegible] sentire debet omnes, et [illegible] de [illegible] tit. [illegible] de [illegible]. [illegible] peregrini [illegible] ut [illegible] legibus oppidi transitus, [illegible] sentire debent [illegible] obligentur legibus loci [illegible], aliter [illegible] ab [illegible] exempti, cum [illegible] ad [illegible] per [illegible] transeunt, ut [illegible] diximus, nec ad [illegible] domicilii [illegible] attendatur. = ~~[illegible]~~, [illegible] praedictos transeuntes [illegible] ad custodiendas leges sui domicilii, quod probatur ex cap. [illegible] [illegible] de constitutionibus [illegible] ubi habetur sub [illegible] extra territorium [illegible] [illegible] in [illegible] lata, et redditur ibi ratio, quia impune non paretur extra territorium [illegible] dicenti, ubi [illegible] explicat non parentis extra territorium [illegible] minime patiens [illegible] licet leges et consuetudines [illegible] extra illud ubi non obligant, transgredi [illegible] plures referens, et argumentis [illegible] satisfaciens tenet Thomas Sanchez [illegible] de matrimonio disp. [illegible] 18. n°. 17 cum sequentibus [illegible] animadvertit [illegible].

n°. 16.

Ex hac doctrina infertur [illegible] transeuntes [illegible] possunt [illegible] Sabbato [illegible] animalium, quamvis in [illegible] non liceat, quia non tenentur ad patriae [illegible] [illegible] tradit Naun [illegible] cap. 23. n°. 120, et 128 [illegible] lib. 4. Dar. cap. 10 n°. 8, Sanchez ubi [illegible] n°. 20, quique affirmant Sacerdotes graecos cum [illegible] in sua patria [illegible] in fermentato celebrare transeuntes [illegible] latinis posse in fermentato [illegible] leges suae patriae, vel [illegible] latinis more celebrare [illegible] sacerdotes latinos posse facere, [illegible] latinos aliquos graecos [illegible] in quibus [illegible] servantur, et inter graecos aliquos latinos, quorum [illegible] tenetur unusquisque [illegible] servare, cum [illegible] habeat [illegible] graeca, et latina celebraretur, et similiter [illegible] minime delinquere [illegible] festo ad [illegible] obligat [illegible] exercens servilia, nec tenetur [illegible] tempus opportunum ad audiendum, si ante [illegible] pervenerint ad locum in quo id festum [illegible], quia in proprio oppido usque ad id tempus poterat auditionem Sacri [illegible]

Alii [illegible] exceptio

Alii n°. negativam [illegible]

[illegible] nulla inferuntur ex hac doctrina.

q[uo]d aut[em] q[ue]rant ad ollis [illegible] iam omnino libere ab eo facere, ut eleganter hanc rem adducens post [illegible] [illegible] Papia ubi [supra] art. 2° n° [illegible] [illegible] affirmat hoc ita observantur in [illegible] a loco ubi [illegible]. [illegible]
n° 17
[illegible], ita ut [illegible], [illegible] que [illegible], quamvis [illegible] sit ad domicilium a Carnibus abstineatur, et ieiunatur.

n° 17

Accedit [illegible] an [illegible] locorum in quibus [illegible] decretum Concilii [illegible] irritans Clandestina matrimonia recepta non est, divertant ad alia oppida per modum transitus et [illegible] ubi [illegible] [illegible] obligat, possint absque parrocho, et testibus valide contrahere [illegible] propii domicilii leges, quamvis in nullo existimaverint valide hoc contrahere absque parrocho, [illegible] [illegible] [illegible] leges loci transitus; Verius iudicamus tale matrimonium irritum esse, quia superior doctrina exceptionem [illegible] [illegible] solemnitates [illegible], [illegible] in illis adhibenda est, quam leges loci ubi celebrantur, exigunt, [illegible] locus [illegible] [illegible] matrimonium ab his peregrinis exigat solemnitates Tridentinas, [illegible] aliter contractus nullus erit, ut [illegible] animadvertit P. de Ledesma de matrim. q. 45. art. 5 puncto 3 dubio ult. ubi etiam animadvertit [illegible] [illegible] incolae locorum in quibus Trid. obligat [illegible] [illegible] ubi non obligat [illegible] illius loci legem absque [par]rocho, et testibus contrahere, et affirmat [illegible] ibi [illegible] domicilium tendant certum esse posse ibi [illegible] parrocho, et testibus contrahere, quia fiunt [illegible] illius loci, et [illegible] iam non adstringuntur legibus [illegible] domicilii; tota autem difficultas est quod solum [illegible] per modum transitus, quo in casu licet in nullo [illegible] [illegible] [illegible] [illegible], Verius iudicamus [illegible] coram parrocho, et testibus contrahere, ratio est quia [illegible] a suo domicilio absentes, non adstringuntur legibus illius, [illegible] [illegible] in loco ubi reperiuntur, quamvis leges domicilii obligent quoad solemnitates adhibendas [illegible], [illegible] leges loci in quo contractus celebrari [illegible], locus autem ubi hoc matrimonium initur [illegible] [illegible] parrochi, et testium solemnitates ad matrimonii valorem [illegible] decretum non [illegible], [illegible] absque illis matrimonium potest contrahere, ut eleganter tradit Coll. [illegible] Sarmiento et alii [illegible] quos refert et sequitur Sanchez [illegible] de matr. disp. 18 n° 25. cum pluribus sequentibus =

n° 18

Hic investigandum venit an captivi apud infideles apud quos non est publicatum Trid. decretum irritans matrimonia Clandestina, si incolae sint locorum in quibus Trid. obligat valide contrahant absque parrocho et testibus; quam relicet [illegible] existentia [illegible], [illegible], probabilius existimamus [illegible] captivos apud infideles [illegible] absque parrocho, et testibus validum esse quamvis ad [illegible] [illegible] [illegible] publicatum, et receptum in sua parrochia, nec animum ibi permanendi habeant, [illegible] observatur in [illegible] mercatores [illegible] qui ibi per modum hospitii sunt quamvis incolae sint locorum in quibus Trid. obligat [illegible] [illegible] quia [illegible] Trid. decretum petit tanquam conditionem requisitam, ut obligare [illegible] publicatum in parrochia, his verbis; decernit insuper ut huiusmodi decretum in unaquaque parrochia robur post triginta dies habere incipiat a die primae publicationis in eadem parrochia factae numerandos [illegible] Cum apud infideles haec conditio deficiat, in illis locis hoc decretum [illegible] obligandi [illegible], [illegible] [illegible] illis [illegible] licet domicilium ibi non fixerint, [illegible] servare solemnitates de hoc decreto [illegible] [illegible] ut [illegible] dicimus contractus sit celebrandus [illegible] solemnitates loci ubi sit [illegible] quia Trid. decretum [illegible] obligaret quamvis captivi haberent animum permanendi, [illegible] [illegible] ante publicatum in sua parrochia [illegible] absque parrocho et testibus contrahere sicut [illegible] in aliis locis fidelium ubi est decretum obligat, [illegible] [illegible] [illegible] publicationis non obligat, [illegible] [illegible] sibi [illegible] permanentes, sive per modum transitus [illegible] antea esset publicatum in sua parrochia, [illegible], posse contrahere absque parrocho, et testibus, ut docet Sanchez ubi supra disp. 18, [illegible] n° 31 [illegible] [illegible] [illegible] [illegible] sequitur [illegible] [illegible] [illegible] satisfacit. =

n° 19

De pena imposita peregrinis

Qualiter autem poenae impositae a legibus statutis executioni debeant [illegible] respectu peregrinorum valde dubium est; Verum in sequenti distinctione haec res temperanda est. Quando poena [illegible] [illegible] imposita, seu ferenda, aut [illegible], et delictum est extra territorium, [illegible], potest postea quando [illegible] ad territorium puniri poena a lege statuta, quia tunc non imponitur extra territorium, sed intra [illegible] [illegible], aut [illegible] delinquentem [illegible] alieno territorio, [illegible] [illegible] [illegible] [illegible] de Constitutionibus [illegible]. Si vero poena est ipso iure lata [illegible] a delinquente extra territorium [illegible] [illegible] quando delinquit sit intra territorium, [illegible] ferens [illegible] ipso facto [illegible], [illegible] ipso facto executus, ut poena excommunicationis latae [illegible], vel saltem mediante iudicis [illegible] [illegible] lex non obligat subditos existentes extra territorium [illegible] [illegible] [illegible] assertionis [illegible]

Legis delinquens extra proprium territorium, quod quidem locum habet quando vel res, vel materia in qua delinquitur est intra territorium legislatoris, veluti si ille qui est extra territorium mittat ad incendendum domum vel eius existentem in suo territorio, et pro hoc delicto est in illo executio, tunc incurrit illam quamvis sit extra, quoniam hoc delictum censetur in extra territorium, sed in eius [illegible], cum ibi consummatum intelligatur ubi res est in quam delinquitur, vel quidam eius [illegible] ex [illegible] Suarez lib. 3. de legibus cap. 32. n.° 5. Cobb. in capit. alma mater [illegible] § 10 n.° 3. de sent. excommunicat. lib. 6. et alii plures quos refert et sequitur Tapia vol. 1.° art. 4. n.° 2. de legibus. =

n.° 20 — Ex quo provenit affirmare legem irritantem non extendere ad irritandos actus subditorum si exerceantur extra territorium, adeo ut si quis data opera et fraudulenter [illegible] territorio ubi aliquis actus est irritus a lege illius territorii irritus ut celebret illum in loco ubi non est irritus, valide celebrat, quia non agit dolose contra legem, sed utitur iure suo eligendo locum ubi non est lex irritans. Verum actus, vel contractus gesti a peregrinis in aliquo loco existentibus in observantia illius solemnitatibus nullius momenti, exemplum est in illo qui facit testamentum vel celebrat contractus peregrinans in loco ubi est lex praebens formam ad valorem testamenti, vel contractus, debet ille servare formam praescriptam per legem, si autem non servaverit, erit irritus et nullus erit; ratio est quia talis lex [illegible] acceptat talis actus, vel contractus ratione loci, et obligat quoscumque in illo loco existentes ad illam servandam, et idem dicendum de subditis etiam per se [illegible] existentibus etiam extranei debeant servare formam loci in [illegible] contractibus, cum oportet ut loci habeant duo debent concurrere, 1.° quod detur praesumptio cum [illegible] actionis in illo loco [illegible] sufficiat illius innovatio. 2.° quod legis [illegible] sint, alias autem non habebit locum irritatio, ita docent Suarez lib. 3.° de legibus cap. 33. n.° 9. et Tapia d. lib. 4. de legibus [illegible] art. 4. [illegible], ubi eleganter explicat cum aliis difficillimum [illegible] cap. [illegible] 11. de sent. excommunicationis. =

n.° 21 — Succedit nunc [illegible] illa difficultas satis quae vexata inter scriptores quaestio: utrum clerici aliquo modo subiiciantur legibus Principum saecularium, quam rem ut perfecte explicemus supponimus personas ecclesiasticas esse exemptas a potestate civili et quoad causas temporales tam civiles quam criminales in foro iudiciali, quod probatur ex cap. decernimus 2.° de iudiciis, cap. 2. cap. 7. de legibus, cap. 12, cap. si quis suadente de foro competenti et canon extat in Concilio Trid. sess. 25. cap. 20 de reformat., nullus quae catholicus hoc dubitavit, nec dubitare potest. Statuimus quae ne quis de legibus civilibus laicorum cum legibus canonicis, et statu ecclesiastico pugnant directe, vel indirecte, huiusmodi enim leges civiles improbantur et reprobantur a iure canonico cap. ecclesia sanctae Mariae, cap. quae in ecclesiarum de constit. cap. noverit 49 de sent. excommunicationis cap. ult. de immunit. ecclesiarum lib. 6. quibus suppositis dicimus has leges non posse extendere clericos quoad vim coactivam seu punitivam, quia Principes, et iudices laici non habent potestatem coactivam iurisdictionis in ecclesiasticas personas, cum gaudeant immunitate fori et exemptione a potestate laica punitiva et coactiva ut docent Suarez l. 4 de legibus cap. 34. n.° 15. Molina t. 2. de iust. et iure disp. 3 [illegible] et alii plures quos refert et sequitur Diana 1.° p. resolut. moralis tract. 10 resolut. [illegible]. =

Quod vim vero directivam et praeceptivam praedictae leges civiles obligant personas ecclesiasticas in foro conscientiae, quia ratio naturalis dictat partem non debere discordare a toto, et quamvis lex civilis non habeat ex se vim obligandi ecclesiasticas personas, [illegible] supposita; quod lex sit contra canones, et statum ecclesiasticum non sit, et pro tota communitate apponatur, et [illegible] sit clericis et laicis, et quae servari possit ab eis sine ulla indecentia, vel iniusta gravamine clericorum, facit et illud quod lex civilis [illegible] haberet [illegible] seu conveniunt, et [illegible] cap. de novi operis nuntiat. cap. [illegible] de arbitris cap. de capitulis, cap. [illegible] cap. [illegible] Cumalys ced., quamvis lex sit leges civiles nunquam obligare clericos directe et vi sua, sed solum indirecte et virtute canonis, et approbatione canonici iuris dantis praedictis legibus vim obligandi, cum sufficiat manentem gubernationem politicam, ecclesia quae vult has leges a clericis servari ob rationem et aequitatem legis naturalis [illegible], V. 2 [illegible] partis cum toto in his quae non decent statui ecclesiastico, vel quibus non habent specialem exemptionem, vel privilegium, ut docent Suarez l. 3. cap. 34 n.° 10, et Tapia [illegible] art. 6. n.° 3. ubi animadvertit hanc doctrinam extendi proportionabiliter ad personas religiosas, cum sit eadem ratio in illis ac in ceteris ecclesiasticis [illegible], et ratio naturalis postulat ut [illegible]

de lege irritante

de legibus erga clericos

[illegible] qui directive [illegible]

[illegible] lex [illegible]

[illegible] decentibus [illegible]

[illegible] cum toto. [illegible]

conformare ex Corpori politico, et s[ecund]o [illegible] observari respectu summi [illegible] si forte [illegible] ad aliquod [illegible] nullatenus autem tenerentur in conscientia observare leges Civiles illius Regni [illegible] excelentia personarum [illegible] cui indecet aliorum legibus subesse = et denique affirmant [illegible] doctrina practicari in lege taxante [illegible] pretium tritici, vel alterius rei, et in lege prohibente extrahi a Regno res necessarias Reipublicae, vel [illegible] deferri arma nocte, et in aliis similibus circa objecta temporalia =

n.º 23

Hinc possunt inquirere [illegible] istae personae ecclesiasticae peccent mortaliter transgrediendo solidalitatis Civiles in [illegible] gravi, quod [illegible] videtur sentire [illegible] Diana [illegible] resolut. 22 existimaverint [illegible] peccare mortaliter [illegible] fundam[ent]o non [illegible] quia indirecta obligatio [illegible] conformitatis est gravis, verius [illegible] dicamus ecclesiasticos transgressores huius obligationis [illegible] peccato, si lex [illegible] gravis sit ut diximus, cuius ratio est quoniam [illegible] directiva legis est [illegible] a coactiva, seu poenitentia, et vere praeceptiva [illegible] graviter in conscientia obligat si [illegible] gravis atque adeo peccatum erit grave, vel leve ex gravitate, vel parvitate materiae sicut in laicis, [illegible] videtur ex lege [illegible], et [illegible] canonico [illegible] lege civili, [illegible] regulariter [illegible] modo leges obligent sub mortali ecclesiasticos quando sic obligant laicos, ut eleganter docent [illegible] Joannes Andreas, et Felinus in [illegible] cap. Ecclesia S[anc]tae Mariae de constit. Bartolus, Salicetus, [illegible] in l. Cunctos populos C. de Summa Trinit. et fide Catholica, et post [illegible] Suarez [illegible] lib. 3. de legibus [illegible] n.º 8 et sequentibus, Diana [illegible] resolut. 120 [illegible] et alii plures quos refert et sequitur [illegible] [illegible] art. 6 [illegible] =

n.º 24

Similiter [illegible] solet utrum religiosi exempti ab obedientia episcoporum teneantur observare leges Synodales loci habitationis, quae in re duplex [illegible] altera affirmativa, altera negativa; affirmativa [illegible] teneri saltem indirecte quoad vim directivam servare leges, quae spectant ad [illegible] de clerici observantia, et quae non derogant statui religioso tenent et defendunt [illegible] [illegible] Sanchez [illegible] Summa lib. 4. cap. [illegible] Villalobos in Summa [illegible] tractatu [illegible] difficult. 3. [illegible] moventur [illegible] conformitate partis cum toto. Negativam vero [illegible] teneri in conscientia [illegible] servare [illegible] Suarez lib. 4. de legibus cap. 20. n.º 10, et alii quos refert et sequitur Diana [illegible] resolut. [illegible] fundamentum [illegible] religiosi ex peculiari [illegible] habent deformitatem quantum ad [illegible] separationis, et strictiores leges, quas [illegible] ecclesiastici, [illegible] conformitatis cum toto clero [illegible] obligandi ad [illegible] leges ecclesiasticas Synodales, nec est [illegible] de legibus Civilibus totius reipublicae [illegible] universaliores [illegible] pertinent ad politicum regimen totius reipublicae. [illegible] Licet cognoscamus utramque [illegible] probabilem, prima affirmativa [illegible] probabilior videtur, [illegible] negativa [illegible] reddit clarum differentiam inter leges Synodales, et Civiles, [illegible] uniformitatis [illegible] cum toto Clero, seu [illegible] statu ecclesiastico, [illegible] lex lata in Synodo [illegible] aut observare aliquod festum [illegible] religiosi [illegible] [illegible], ut eleganter [illegible] tradit [illegible] n.º [illegible] et seqq. =

n.º 25

Denique examinandum est utrum legislator suis legibus obligetur [illegible] [illegible] obligetur, [illegible] his duabus [illegible] exponendo, sicut Princeps [illegible] obligatur suis legibus quoad vim coactivam, seu coercitivam [illegible], quia coactio requirit esse [illegible] ad [illegible] [illegible] potentia simul [illegible] et [illegible] de [illegible] [illegible] ferant in [illegible], [illegible] nemo potest [illegible] ferre in se [illegible] simul [illegible] voluntarium respectu [illegible], atque adeo solus superior potest [illegible] cooperatus subditis, ideoque legislator si fuerit supremus [illegible] a suo superiori cogi, ac puniri [illegible] fuerit supremus, a solo Deo, [illegible] de suprema Sede dicitur [illegible] a nemine judicatur, quia judicium habet necessario annexam coactionem, ut eleganter tradit Angelicus Praeceptor D[ivus] Thomas [illegible] 1a 2ae [illegible] ad 3. = [illegible] quoad vim directivam legislator [illegible] ecclesiasticus, quam laicus tenetur observare [illegible] leges, [illegible] cap. [illegible] cap. [illegible] [illegible] 1. [illegible] Vox [illegible] legibus, l. ex imperfecto C. de testam. [illegible] ult. [illegible] quibus modis [illegible] infirmantur [illegible] [illegible] naturali convenit [illegible] lex humana semel lata obliget [illegible] ipsum legislatorem, ne aliis legem imponens ipse [illegible] vivat, et lex a subditis [illegible] feratur, atque adeo [illegible] in [illegible] est hac [illegible] obliget ipsum legislatorem in conscientia [illegible], quatenus [illegible]

(mar-

Margin notes:
Cum peccato mortali [illegible]
De legibus Synodalibus respectu religiosorum agitur.
[illegible] leges [illegible]

manet in Deo, quodcumque habeditur efficacia obligante virum legislatoris sit in Deo potestas ista necessaria. Colligitur ex omnibus dictis authoritatibus, ex omni Consensu Doctorum, et acceptatione hominum fundatum ipsa ratione naturali uniformitatis partis Corporis politici et exemplari Vitae Superioris, et illud Domini Matthaei c. 23. ibi alligant ... digito suo nolunt ea movere, ... reprehendi Superiores qui nolunt facere quod jubent aliis. ... tradit Suarez lib. 3. de legibus. cap. 35. n. 4. et alii plures quos refert et sequitur Diana ... tractatu 10 resolutione ... de legibus.

Pro complemento hujus articuli omittere non possumus animadvertere

de poena legislatoris

Legislatorem transgressorem suae legis in dicto modo obligantis peccare eadem specie et gravitate peccati mortalis aut venialis ... gravitatis ... sicut subditus, quia obligatio ... ejusdem legis ... proveniat directive, et coactive immediate a legislatore humano, ipse autem legislator obligatur solum directive a Deo per ipsammet legem humanam; ... peccatum in gravitate committit legislator transgrediens suam legem ac ... subditi ... legis transgressores ut ... animadvertit D. Thomas ... art. ... Suarez ... n. 8 et 10. ... et alii plures quos refert et sequitur ...

= ... art. 9 ... =

= ... =

Articulus 9us. De dispensatione legum

humanarum, de potestate quae in illis dispensandi, et de ... dispensandi

... plures ... =

Nota

definitio dispensationis expositiones

In hoc articulo tria ... exponenda sunt, circa ... dispensationis ... primis itaque ... hujus nominis dispensationis ... significationibus, de quibus ... capite ... 4. § ... D. Thomas 1a 2ae q. 97. art. 4, cujus definitio proponenda est, quae sic se habet, dispensatio est Vinculi legis relaxatio ab eo qui potestatem habet cum causae cognitione. hanc definitionem ... D. Thomas 1a 2ae q. 97. art. 4. et alii plures quos refert et sequitur ... singula exponens ... 4. de legibus q. 29 ... quae animadvertit ... dispensationem duplicem, aliam expressam, aliam tacitam. expressa est quae fit per expressa aut aequivalentia verba, vel signa exprimentia animum dispensantis, et Vinculum aut materiam in qua dispensat, et personam cui ... dispensatur, ... expressa dispensatione ... determinatam intentionem dispensantis, determinatum Vinculum, seu materiam, et determinatam personam expressis signis ..., ita ut qualibet ... expressa ... sufficiet ... exprimatur ... dispenso cum Petro in quacumque lege, vel Censura, vel hoc modo dispenso cum omnibus Clericis, sive cum ecclesiasticis, vel ... Universitatis, vel ... quae generalitas ... expressionem aut determinationem sufficientem ad expressam dispensationem; tacita vero dispensatio ... Superior ... et ... dispensare ... Subdito aliquid quod sine ... dispensatione fieri, aut valere nequit, vel ... lege prohibitum scienter admittit, permittit ... ut subditus faciat ... ut ... docet ... de ... 4. n. 3. de legibus. =

n. 2.

Ex hac dispensatione sive expressa sive tacita duplicem effectum, primarium et secundarium, primarium relaxare Vinculum ... obligationem legis in Conscientia ..., quia primarius effectus legis est obligatio in Conscientia ad Culpam, ... dispensatio est relaxatio obligationis legis, ... primarius ... dispensationis est relaxatio obligationis in Conscientia, quia ... dispensatio ... relaxare ... Secundarius effectus dispensationis ... relaxare obligationem legis ... secundarius ... relaxationis ... dispensationem ... relaxare ... obligatio ... ut ... Vinculum sive ... dispensatio ... relaxat obligationem

obligatio ad [illegible] absque relaxatione obligationis [illegible], ex his accidit in casu obligatione ad [illegible] [illegible] [illegible] à Carminis et [illegible], et plures [illegible], vel relaxari obligatio [illegible] sine aliis, ratione quia [illegible] obligationes [illegible] separabiles et ad invicem independentes quantum ad relaxationem, potest [illegible] una obligatio relaxari absque alia, ut tradit [illegible] lib. 4 cap. 47. n.º 4. Sanchez [illegible] n.º 15. Navarrus in cap. [illegible] n.º [illegible] [illegible] Celebratione [illegible] [illegible] [illegible] Asor [illegible] lib. 3. [illegible] [illegible] Menochius lib. 2. de praesumptionibus praesumpt. 20. n.º 14 et 15. =

n.º 3

Vbi tacitum [illegible] [illegible] [illegible] [illegible]

Hinc [illegible] [illegible] [illegible] sola patientia [illegible] [illegible] [illegible] [illegible] [illegible] in quibus dispensare, exercere [illegible], censeatur [illegible], [illegible] impedimentis, [illegible] dispensare valet, ut [illegible], vel [illegible] videat irregulares Celebrare, et habentes [illegible] haeremonias, quae [illegible] licet [illegible] nullus [illegible] defendant [illegible] quia et potuit [illegible] [illegible] Principes dissimulatio [illegible] aliquos perseverare in malo [illegible] dispensationis, probabilius et verius iudicamus [illegible] censeri tacitam interuenire dispensationem [illegible] ille [illegible] potest facile [illegible], [illegible], sed tacet, quod probatur [illegible] quia ille tacitus [illegible] tamquam ratihabitio de praesenti, et quia [illegible] [illegible] incumbat [illegible] subditorum [illegible], [illegible] [illegible] dicere potest, [illegible] gravissimus [illegible] dicentis [illegible] Censeri dispensare [illegible] Nec quod quantum [illegible], quia [illegible] Principe dissimulante [illegible] Scandalo [illegible] [illegible] dispensatio [illegible], nisi [illegible] et [illegible] dissimulatio [illegible] [illegible] et [illegible] tradunt. Bobadilla lib. 2 de [illegible] cap. 4. n.º 2. n.º 19. [illegible] lib. 5. [illegible] [illegible] et alii plures, quos refert et sequitur [illegible] lib. 8. de matrimonio disp. [illegible] [illegible] n.º 25. [illegible] [illegible]. Sed [illegible], [illegible] [illegible], et [illegible]. =

n.º 4

Propositio [illegible] [illegible] [illegible]

[illegible] expositis succedit [illegible] [illegible] [illegible] dispensandi, quam [illegible] [illegible] breviter supponimus duplicem esse potestatem, alteram ordinariam, alteram delegatam, ordinaria est quae [illegible] ratione officii [illegible], de qua [illegible] [illegible] [illegible] [illegible] Ordinarii [illegible], [illegible] [illegible] [illegible] Gregor. [illegible]. [illegible] Similiter, [illegible] [illegible] [illegible] Ordinarii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Merla in [illegible] lib. [illegible] [illegible] [illegible] 17. n.º [illegible], [illegible] utrumque [illegible], et [illegible] [illegible], [illegible]. [illegible] [illegible], [illegible] quodquilibet [illegible] habeat potestatem ordinariam in sua sede dispensandi, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. Ex quo [illegible] Superiorem in iurisdictione posse dispensare in lege inferioris, [illegible]. Pontifex dispensat in lege [illegible] quia potestas inferioris, [illegible], subordinatur, et pendet a superioris [illegible], cap. [illegible] [illegible] de maioritate et obedientia. Similiter [illegible] [illegible] ante Consecrationem [illegible] [illegible] et Archiepiscopus [illegible] ante receptionem pallii, potest dispensare sicut et condere leges. [illegible] [illegible] sede, et iurisdictione [illegible] dispensare in legibus sui praedecessoris, sive [illegible], [illegible] utrumque [illegible] et iurisdictio [illegible], [illegible] [illegible] dispensat in legibus suorum praedecessorum [illegible] [illegible] [illegible] extra, et [illegible] in legibus [illegible], et Synodi diocesanae; quod idem [illegible] de aliis similibus [illegible] [illegible], [illegible] [illegible] Principibus, et de Capitulo [illegible] Cathedralis [illegible] [illegible] [illegible] Episcopi, et Synodi diocesanae, quia [illegible] [illegible] habet potestatem Episcopalem [illegible] [illegible] [illegible] a iure [illegible]. ut tradunt [illegible] Thomas quodlibeto 4. art. 13. Victoria [illegible] [illegible] potestate [illegible] [illegible] 4. [illegible] cap. 6. § 9. n.º 6. [illegible] lib. 2. de iust. et iure cap. 4. dubio 122. [illegible] Sanchez [illegible] lib. 8. de matrimonio disp. [illegible] n.º 11. [illegible] lib. [illegible] cap. [illegible] n.º 7 et 8. =

n.º 5.

De [illegible] Metropolitano [illegible]

Hinc dubitabis [illegible] Archiepiscopus Metropolitanus possit dispensare in [illegible] suffraganeorum [illegible], [illegible] [illegible] quia Archiepiscopus habet [illegible] suffraganeos [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] appellationis, [illegible] videatur posse dispensare in [illegible] [illegible] [illegible] [illegible] [illegible] Archiepiscopum [illegible] [illegible] ordinarie dispensare in legibus suffraganeorum [illegible] [illegible] [illegible]

De legibus

Nam est quia Archiepiscopus non habet in suos Suffraganeos Ordinariam Curam et jurisdictionem ut Constat ex textu in cap. 1. de officio legati, et ex cap. duo de officio ordinarii in 6. ut tradit Silvester [illegible] Sot. lib. 7. de just. et jure q. 4. art. 2. [illegible] aliique plures quos refert et sequitur Sanchez in summa lib. 4. cap. 38. n. 11. qui animadvertit aut licitum [illegible] dispensandi [illegible] habere, [illegible] dispensat [illegible] quod dispensare teneatur, [illegible] recurrat ad Metropolitanum [illegible] Archiepiscopus [illegible] dispensare [illegible] dispensationis [illegible]. [illegible] Ordinarius dispensat [illegible] licet [illegible] misericorditer [illegible] dispensare [illegible] ut dispensat [illegible] judicatur [illegible] ad [illegible] inferiores [illegible] debitis [illegible] petenti [illegible] misericordem exhibeat quando oportuerit, idque postulat [illegible] authores tradit Suarez [illegible] 20. art. 20. n. [illegible] =

n. 6 — Solet etiam proveniri quid debeat observari quando Archiepiscopus [illegible] Suffraganeam Visitat, an videlicet Visitatis possit dispensationes concedere, quando liceret Episcopo [illegible] nullique alii [illegible] potestate dispensandi [illegible] Visitatus [illegible] Archiepiscopus [illegible] Ordinarius [illegible] Visitatae dioecesis Suffraganei [illegible] nihil [illegible] Visitationem [illegible] specialiter [illegible] ordinarii [illegible] dispensandi [illegible] Suarez de legibus lib. 6. cap. 14. n. 7. Sanchez [illegible] cap. 38. n. 14 [illegible] quando Visitat [illegible] ordinariam [illegible] Suffraganei, quamvis [illegible] vel recurrere ad Summum Pontificem [illegible] =

Ex quo provenit Archiepiscopum habere potestatem in Confirmatione [illegible] cap. 1. 6 [illegible] innotuit 20. cap. [illegible] de elect. cap. inter corporalia de translat. [illegible] de appellationibus [illegible] Suffraganei 11. de elect. [illegible] de temporibus ordinationum [illegible] a Romano Pontifice dependet ut elegantur tradit Barbosa lib. 1. de Ecclesiastico [illegible] =

n. 8 — Hic inconveniens exponendus venit Vicarius generalis [illegible] et Capitulum Cathedrae [illegible] Sede Vacante possit dispensare in legibus [illegible] plurimorum [illegible] Vicarius generalis [illegible] dispensare [illegible] dispensatio [illegible] in generali mandato [illegible] specialiter legis latoris [illegible] reservata [illegible] ut tradunt Joannes Gutierrez lib. 1. Canonicarum q. [illegible] n. 15. [illegible] in summa lib. 12. de matrimonio [illegible] n. 2. Sanchez lib. 2. de matrimonio [illegible] 40. n. 12. = [illegible] Capitulum Sede Vacante [illegible] dispensare [illegible] legibus [illegible] exceptis [illegible] specialiter [illegible] Sede Vacante aliquid innovetur [illegible] proponitur [illegible] quia Capitulum succedit Sede Vacante in ordinariam [illegible] ut elegantur tradit Sanchez lib. 8. de matrimonio [illegible] n. 10 et in summa lib. 4. cap. 38. n. 17. Azor 2. p. [illegible] moral. lib. 3. cap. 38 [illegible] Cancellarii § 4. [illegible] n. 15. Lambertinus lib. 2 de [illegible] art. 24. q. 2. [illegible] plures quos refert [illegible] de beneficiis [illegible] n. 19 [illegible] Capitulum Sede Vacante [illegible] =

n. 9 — Similiter explicandum venit Legatus, vel nuntius Summi Pontificis [illegible] potestatem ordinariam dispensare in legibus [illegible] Cardinalis [illegible] Legati [illegible] dispensare [illegible]

potestate ordinaria, ratio est quia legati, et Nuntii ex hac potestate gaudent in sua provincia ... extra dicessim, quo vero dispensare in legibus in solum ... sed ..., et ... quod ... cum sit superior potestas. = ... Cardinales qui non sunt legati Apostolici ... ex dignitate ... habeant ... in legibus dispensare posse, quod ... quoniam ... sue dignitatis ... habent immunitatem ... subiectam, nec ... sive titulorum, si autem aliquam habent jurisdictionem ut ... delegati Summi ..., aut ... quas regulariter ... in legibus nisi ... determinate sit concessa, ... ut eleganter tradunt Suarez to. 2° de relig. lib. 6. de Voto cap. 10. n° 10 Sanchez in Summa cap. 3 ... n. 2, et 3. et alii plures quos refert et sequitur ... =

n° 10

De pia ... inferior ... agitur.

Deinde inquirendum est ... inferior ... possit dispensare ... ordinaria in legibus Superioris, Communiter licet affirmative respondeant plures ... sequitur Barbosa ... alleg. 33. n° 17. ... fundamentum ... nam ... posset absolvere quolibet ... inferior quando non est reservatum ... Summo Pontifici ... indicamus, ... non posse inferiorem dispensare in legibus superioris, quamvis dispensatio ... superiori ... concedatur, et delegetur inferiori; ratio est quia inferior habet potestatem ... superioris ... inferior de ... et obedientia ... inferior ... nisi illi quid tale ... Nec quidquam obstat fundamentum ... opinionis, quoniam notorium est discrimen inter absolutionem et dispensationem ... potestas absolvendi a censuris, vel peccatis ... omnia ... reservata ... facultas ... expectat ad forum internum animi ... favorem extenditur ad ... ita ... specialiter reservatur, ... poterunt absolvere inferiores ..., et fideles ... peccati quod ..., ... dispensatio ... gravia pericula, et ... Superioris ... dispensare, ut docent Suarez lib. 6. de legibus cap. 14 n° 4. et alii ... art. 5. ... 4. =

n° 11

Superioris doctrina limitatur ... =

Verum ... doctrina ... patitur limitationes. 1a si lex ... absolute ... dispensationem quamvis ... determinatum dispensatorem, ut si ita ... praecipimus, ... hoc donec ... dispensetur, poterit ... inferior dispensare in lege, ... Concilii aut aliquibus Bullis Pontificis ... forma ... dispensare in illa ... donec dispensetur ... cum Superior Conditor legis ... habeat facultatem ... in illa ... clausula. = 2a limitatio est si ... legis ... magni momenti ... obligat ad peccatum, vel ... obligat ad mortale, ... Superioris voluntas ... reservare sibi dispensationem, ... facultas ... inferiori ... = 3a ... frequenter occurrunt, ... in ... votis simplicibus non reservatis et aliis similibus, ratio est quia ... frequenter accidunt dispensande habeant facile ... inferiores, ... ad Summum Pontificem. = 4a limitatio est in legibus ... Pontificis ... universalibus, sed ... loco, vel communitate particulari quia ... propria, et particularis ... Superioris ... cap. ... de ... lib. 6. ... Sanchez lib. 8. de matr. disp. 5 ... Navarrus ... cap. ... n. ... =

n° 12

Inter ... solent numerari, prima est quando ... Consuetudo ut inferior dispenset in lege Superioris ... procedit in legibus ... praecepta ... et est impossibilis aditus ... ad Superiorem conditorem legis, ... Pontifex, vel quando ... periculum in mora, aut timetur grave ... tunc ... posse dispensare in lege Pontificis, quia id exigit ... bonum ... ut tradunt ... Laurmanus ... cap. ... de adulteriis, ... Navarrus in manuali cap. 22 n° 89. Sanchez lib. 2. de matrimonio disp. 40. et ...

disp. 9. n.º 22. Suarez ubi s.ª d.º cap. 24. n.º 10, et alij plures, quos refert, et sequitur Tapia d. q. 20 art. 3 in 8 [illegible] ubi affirmat in p.dictis casibus dispensare inferiorem potestate ordinaria in lege superioris, quia competit ei ratione proprij officij; dum tales inferior iurisdictionem ordinariam habeat, et quare dicatur potestas dispensandi in lege superioris, ita ut non solum expresse, sed etiam tacite [illegible] valeat, quia qui habet potestatem dispensandi, non solum expresse, verum etiam tacite potest dispensationem concedere, ut late s.ª diximus =

n.º 17

Illis omnibus [illegible] explicatio illius authoris, utrum v. [illegible] quibus conceditur, seu delegatur facultas dispensandi sint stricte, an vero ample interpretandae, circa quod licet valde apud scriptores controversia sit, duplici hac regula explananda est. Sit 1.ª potestas dispensandi quatenus cedit in favorem delegati qui debet dispensare est ample interpretanda tanquam favor et gratia illi concessa, cap. at si clerici q.º §.º de adulterijs de judicijs; cap. ult. de simonia, ratio est, quia potestas dispensandi ut respicit delegatum dispensaturum est favorabilissima, et bono suo cum sit in favorem regiminis q.º tanquam gratia ipsi facta ampliandum est, ideoque in dubio an extendatur ad aliquem casum, indicandum est extendi, si aliter p.dictum dubium pro alterutra parte ~~extendi~~ trunci non possit. = Sit 2.ª regula: si facultas concedatur in favorem dispensati, seu illius cui facienda est dispensatio, tunc potestas dispensandi interpretanda est stricte ex p.dicta iura, quod ex eo provenit quia quamvis talis facultatis concessio sit favorabilis personae [illegible] dispensandae, tamen iudicatur odiosa respectu iurisdictionis cui derogat, ut tradunt Suarez ubi s.ª cap. 17. n.º 5. et 7. Sanchez d.º lib. 8 de matrim. disp. 2.ª n.º 1.º Basilius lo. d. tractatu de matrim. lib. 8. cap. 4. n.º 13. Coll. [illegible] 4. p.te d.º cap. 8. § 8. n.º 6, qui inter alia animadvertit certum esse tam potestatem dispensandi in favorem dispensandi, vel q.º delegatio generaliter facta est quoad personas dispensandas absque lacus expresso, quando tunc bonum publicum attenditur, et indicandum censetur in favorem personae dispensantis q.º ipsi conceditur ut eligat [illegible] dispensatores, vel q.º conceditur ipsi delegato ad dispensandum cum determinata persona sive concessio fiat ad preces partis dispensandae, sive ad petitionem delegati pro persona determinata, vel absque eo determinanda, quando in p.dictis casibus dirigatur favor, et gratia in bonum privatum corrigendo ius seu legem, dum non in bonum regiminis, ut post p.dictos authores docet Tapia ubi s.ª d. q. 20. art. 11. n.º 5. ubi [illegible] p.dictis primis [illegible] limitationes apponit, et late prosequitur. =

n.º 14

Denique ut in hoc art. ad p.tum finem inquiramus [illegible] ullus est [illegible] que q.º exponenda veniunt. Sit 1.ª utrum legislator possit secum, sicut cum suis subditis in legibus dispensare, qua in re licet nulli partem negativam tueantur eo fundamento, quia dispensatio est actus iurisdictionis, quae videtur requirere distinctionem personarum, ita ut nullus in se ipsum possit exercere iurisdictionem, et tunc debeat recurrere ad superiorem, verior partem affirmativam indicamus, statuimusque quemlibet legislatorem seu legislatorem habentem potestatem dispensandi cum toto suo [illegible] sive ordinariam, sive delegatam posse secum dispensare ex legitima causa sicut facit cum alijs sibi subditis. Ratio est quia dispensatio est quaedam velut distributio favoris seu levamen subditis [illegible] quando adest legitima causa, qui ut cumque autem distribuit atque dispensat bona omnibus [illegible] capax participandi favorem illum sicut alij acceptus, alias est deterioris conditionis alijs membris, cum ipse sit pars in corpore mystico, cujus est caput, nec ad dispensationem requiritur distinctio realis inter dispensantem et dispensatum, cum dictus [illegible] quilibet superior secum dispensare, et [illegible] in se huiusmodi iurisdictionem dispensandi sicut [illegible] concederet sibi indulgentias ex thesauro ecclesiae, quas alijs concedit. Quod autem observandum [illegible] dictio conversio sit ex per modum sententiae aut iudicij, velut [illegible], et absolvere [illegible] ipso exercere [illegible] quia exposcit distinctionem inter agentem, et partem obligandam vel absolvendam, et tunc procedit ratio dubitandi in 2.ª huius posita, ut tradunt D. Thomas 2. 2. q. 185. art. 8. [illegible] q.º 20 q. 2. art. 5. [illegible] q. ad 37 Soto in 4.º d. 21. q. 1. art. 4. Emmanuel Rodriguez t. 1.º quaestionum regularium q. 45. art. ult. Thomas Sanchez t. 1.º d. de matrim. disp. 3. [illegible], et alij plures, quos noviter refert, et sequitur Castro Palao t. 1.º tract. 3. disp. 5. punct. 7. [illegible] =

n.º 15

Qualiter autem fieri debeat p.dicta dispensatio solet oriri, non dubitamus huiusmodi fieri posse. 1.º committendo alteri facultatem ut secum dispenset, quae tunc fiat mediate, et collatio mediate [illegible] et concedendo ut possit ipse [illegible] concedere [illegible] facultatem ut [illegible] absolvat [illegible] praeter [illegible]

Margin notes:

[illegible]

[illegible] dispensandi [illegible]

[illegible] legislator [illegible] secum possit dispensare [illegible]

[illegible] dispensationem [illegible]

[illegible] si [illegible] potest [illegible] ipsos immediate absolvere, [illegible] possit alteri conferre facultatem ut sibi [illegible] beneficium absolutionis, a fortiori ut secum dispenset in legibus, votis, iuramentis, et aliis [illegible] dispensare cum subditis = 2° potest [illegible] dispensatio fieri indirecte, id est dispensando universaliter cum [illegible] [illegible] ut si dispenset in [illegible] in quadragesima ob [illegible] [illegible] quia hoc [illegible] directe sed indirecte, et consequenter [illegible] dispensat universaliter [illegible] [illegible] [illegible] necessitas, et [illegible] iurando [illegible] = Denique potest [illegible] et quicumque [illegible] secum dispensare directe, et immediate relaxando sibi specialiter vinculum legis, voti, iuramenti, et similibus [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] ad [illegible] [illegible] habeat potestatem absolutam, [illegible] si haberet limitatam [illegible] [illegible] [illegible] ipse [illegible] [illegible], [illegible] dispensatore delegato [illegible] possit secum dispensare, [illegible] extenditur tunc illa potestas ob sui limites, [illegible] Thomas [illegible], et [illegible] [illegible] alii plures quos refert, et sequitur [illegible] q. 20 art. 27. [illegible] =

n.° 16

Potentne [illegible] pontifices dispensare cum religiosis [illegible] iurisdictionem [illegible] possunt dispensare cum secularibus, [illegible] [illegible] extiterint exemptores, [illegible] [illegible] episcopos regulariter, et ordinarie cum [illegible] religiosis dispensare [illegible], [illegible] quia [illegible] exempti [illegible] episcopi, et cum hoc exemptio sit privilegium [illegible] religioni, [illegible] [illegible] particulariter submittere tali iurisdictioni, [illegible] in [illegible] in [illegible], [illegible] publice [illegible] [illegible] praelati possunt submittere [illegible] religionis, [illegible] possunt cum eo dispensare, ut [illegible] [illegible] de [illegible] cap. 5. n.° 13. [illegible] [illegible] 4. [illegible] cap. [illegible] 17. [illegible] nulli praelati religionis possunt dispensare [illegible], vel [illegible] in quo potest episcopus, possunt praelati [illegible] [illegible] et episcopus, et cum eo tunc dispensaret, [illegible] religio [illegible] [illegible] [illegible] potestatem, sed potius [illegible], [illegible] religiosi carent [illegible] dispensandi vel [illegible] summum [illegible] [illegible] sui [illegible], [illegible] religionis [illegible]. ut tradunt [illegible] [illegible] 2. p. cap. 7. disp. 1. dubio 6. Suarez [illegible] disp. 30 sect. 2 n.° 3. et alii plures relati [illegible] [illegible] 4. [illegible] disp. 62 n.° 4 = [illegible] praelatus qui dispensare potest, [illegible] dispensare et subditis impeditus sit [illegible] alius praelatus intra religionem, [illegible] possunt recurrere ad [illegible] [illegible] cum eo dispensaret, [illegible] debet [illegible] [illegible] [illegible] [illegible] [illegible] rigore eximere religiosos a [illegible] iurisdictione episcopali, aut favere [illegible], et [illegible] regiminis, [illegible] [illegible] debet subdito evidenter constare de [illegible] praelati; in dubio [illegible] standum est pro praelato, quia [illegible] iurisdictionis, et [illegible] [illegible]. Similiter si praelatus religionis impotens fuerit ad dispensandum vel [illegible] aliquo impeditus, vel [illegible] sine scandalo, aut magno inconvenienti [illegible], et [illegible] ad alios [illegible] intra religionem, et [illegible] necessitas [illegible] dispensationis, possunt religiosi adire episcopum, qui tunc cum eo [illegible] sicut cum aliis suis subditis [illegible] [illegible], [illegible] [illegible] [illegible] q. 20 [illegible] [illegible] =

n.° 17.

Succedit [illegible] [illegible] [illegible] [illegible] explananda de 2.a [illegible] [illegible] quam [illegible] [illegible] [illegible] pro regula generali [illegible] nullus legislator quantumvis supremus [illegible] [illegible] lege dispensare, nec inferiorem [illegible] [illegible] causa proportionata, et [illegible] dicitur [illegible] adequata dispensationi, [illegible] [illegible] prudentis iudicatur sufficiens ut dispense [illegible] legis seu [illegible] pro tali tempore, vel persona, [illegible] regula [illegible] provenit quia dispensatio ex [illegible] [illegible] [illegible] cum sit quaedam [illegible] distributio favoris [illegible], [illegible], est enim [illegible] vinculi relaxatio [illegible] debet esse fidelis, alioquin est dissipatio, et abusus [illegible], [illegible] [illegible] [illegible] [illegible] sit illis sine causa [illegible], ut [illegible] in Trid. sess. 24 de reformat. cap. 5. [illegible] [illegible] dispensatur [illegible] causa [illegible] interveniente, [illegible] dispensatio aliter [illegible] [illegible], quia ut dispensatio licita, et [illegible] debet esse prudens, et fidelis [illegible] Luc. 12. [illegible] esse fidelis dispensator prudens, [illegible] [illegible] [illegible], [illegible] fidelis, et prudens, [illegible] quis sine causa dispensat relaxando alicui vinculum legis [illegible], [illegible] dispensat, [illegible], et [illegible], [illegible]

[illegible]

abutendo sua munere in quo non est absolutus dominus, sed minister cui data est potestas a Deo in aedificationem, non in destructionem, ut pluribus authoritatibus adductis tradunt D. Thomas 1.a 2.ae q. 97 art. 5. Suarez lib. 6. de legibus cap. 18 n. 4 cum [illegible], et alii plures quos refert et sequitur Sayr. lib. 4 de legibus quaest. 11 art. 1 [illegible]. =

n. 18

Hoc supposito in primis exponendum venit utrum in aliqua lege dispensare sine sufficienti causa peccatum mortale sit, qua in re duplex est sententia negativa, et affirmativa; negativam hoc est quid tale facientes non mortaliter, sed potius venialiter peccare defendunt Thomas Sanchez lib. 8 de matrimonio disp. 18. n. 7. Navarrus in summa libro 9 n. 24. et alii plures, quos refert, et sequitur Diana 4 p. tract. 10 resolut. 32, et 35. qui hoc moventur fundamento, quoniam dispensator solum est [illegible] fidelitatis virtus moralis, haec autem virtus sicut et veritas solum obligat ad veniale, itaque videbatur [deleted] ut infidelis dispensatio absque causa valida solum peccatum veniale inducere. = Negativa non [illegible] est, dispensatio sine causa peccatum mortale ex genere suo, etiam secluso scandalo, et quovis alio secluso inconvenienti tamquam verius amplectimur, et ex eo movemur, quoniam huiusmodi dispensatio etsi sit valida est contra justitiam ex qua tenetur dispensator fideliter uti sua potestate in aedificationem, et non in destructionem; contra [illegible] acceptio personarum, quae regulariter in iure est reprobata, si absque causa dispensaretur cum aliquo validis aliis sub lege obligatis, et onere absque ulla ratione discriminis exploratoris, quemadmodum etiam ferre legem pro aliquibus validis aliis liberis ab illa sine causa in ipsa prima legis promulgatione est manifesta acceptio personarum, et iniustus abusus potestatis, et quiddam tyrannicum [illegible] [illegible] fugiens [illegible], [illegible] tradunt Suarez lib. 6. de legibus cap. 18 n. 9. Soto in 4. dist. 39. q. 1. art. 2. et lib. 3. de justitia, et [illegible] q. 6 art. 5 ad 2. Coll. in 4. [illegible] cap. 6. § 9. n. 7. Valencia, Granados, et alii plures quos refert et sequitur Sayr. ubi supra q. 11. art. 2. n. 3 [illegible]. =

n. 19.

Similiter inquirendum est utrum subditus peccet etiam mortaliter petendo dispensationem sine legitima causa, et illa utendo. Ad quam rem dicimus, quod licet probabile sit non esse nisi peccatum veniale quid tale facere, probabilius est ex genere suo peccatum mortale induci, quia sic petens cooperatur cum dispensatore ad peccatum mortale contra justitiam, cum cooperans ad malum participet eandem speciem malitiae ad quam operatur, ideo quotiescumque aliquis praelatum suum decepit malafide petendo dispensationem cum narratione falsae causae quamvis praelatus deceptus non peccet propter ignorantiam invincibilem, ille peccat mortaliter ex genere peccati quia decepit praelatum contra justitiam. = Cum [illegible] si dicta legis dispensatio sit invalida sine petita [illegible], sive ei sponte oblata peccat subditus ea utens cognoscendo nullitatem, quoniam agit contra legem obligantem ipsum, siquidem cum dispensatio sit invalida et nulla non est absolutus ab obligatione, quam in casu gravitatis aut levitatis peccati pensanda est gravitas vel levitas materiae legis contra quam agitur actu illa non est dispensatus, si vero talis dispensatio sine causa valida sit, et ultro a legislatore oblata, subditus etiam sciens utens praedicta dispensatione nullum peccatum committit quia nec cooperatur peccato dispensantis, nec agit contra legem, cum dispensatio valida sit ablata legis obligatione ut tradit Navarrus in manuali cap. 12 n. 57. similiter [illegible] dispensatio q. 3 Sanchez lib. 8 de matrimonio disp. 18 n. 12 et 13. et alii plures quos refert et sequitur Suarez t. lib. 6 de legibus cap. 19 n. 24 [illegible] dispensatus [illegible] absque causa [illegible] legem non [illegible] dispensatione, quoniam aut invalida dispensatio est, aut dubium an sit invalida, aut valida, et [illegible] peccat quia non conformat se justitiae et [illegible] naturalis, itaque cum legislatore posset agere cum dispensatione sine causa contra legem, [illegible] dispensare, atque [illegible] tenetur sub legibus ut [illegible] Thomae, et omnibus [illegible]. =

n. 20

Ex quo resolutione provenit ex lucere utrum dispensator qui sine causa legitima dispensavit a tali lege teneatur revocare praedictam dispensationem, quae in re varii sunt auctores, aliqui dicunt dispensatorem teneri in conscientia revocare dispensationem absque causa concessam si aliquo fuit valida, quia [illegible] [illegible] quia subditus [illegible] peccat ob dispensationem, ut satis [illegible], sed peccat dispensator, quod committit dispensationem [illegible], quia peccat permittendo usum dispensationis subditis quamdiu illis [illegible] peccaverint [illegible]

Utrum qui sine causa dispensatus [illegible] obligetur ad revocandam dispensationem.

non peccat postea utendo dispensatione valida sine causa impetrata. Alii vero, et rectius existimant dispe[illegible]
in conscientia destrictum ad revocandam iniustam dispensationem absque legitima causa concessam, quia si non obligaretur [illegible]
esset quia licet talis dispensatio sit valida, est tamen iniusta, sed existimare, et servare libere illicita [illegible]
[illegible] valde illicitum, et peccaminosum [illegible] dispensatio illa [illegible] revocando illam
dispensator illam revocare in conscientia tenetur. [illegible] quia
[illegible] dubito utentem dispensatione quam petiit et impetravit absque causa, quamvis [illegible] licite esset [illegible]
utitur, quia postquam obtinuit dispensationem [illegible] revocare [illegible] utens [illegible]
persona valida non peccat cum [illegible] non [illegible]
forte [illegible] tenebitur in conscientia detegere fraudem dispensatori, [illegible]
revocaverit dispensator, poterit deinceps dispensatus [illegible] dispensatione quia nullo modo [illegible]
pravitatem dispensatarii. Si autem [illegible] dispensationem absque causa [illegible] sit ipse legislator qui [illegible]
peccavit non solum peccavit dispensando, sed etiam utendo postea dispensatione [illegible] quia [illegible]
care dispensator qui sine causa dispensavit [illegible] peccat [illegible] dispensatione utendo [illegible]
[illegible] non solum [illegible] sed [illegible] magna differentia
[illegible] qui sine causa et sine fraude recepit a legislatore dispensationem [illegible] dispensator [illegible]
causa dispensavit, quia [illegible] revocaret [illegible] subditus, atque ideo [illegible] dispensat
[illegible] sine causa, et sine fraude peccat [illegible] scandalo, ut legislator [illegible]
absque causa peccat ut docet Suarez [illegible] de legibus cap. 19 n. 9 [illegible] et alii plures [illegible]

Quae sit causa sufficiens ad dispensationem [illegible] expenditur.

Restat ut exponamus quae sit causa sufficiens ad licitam dispensationem [illegible]
[illegible] dicitur, quae re generaliter accepta triplex potest causa considerari ad auferendam legis obligationem [illegible]
sationis. 1a quae [illegible] obligationem legis et eius observantiam. 2a quae non excusat [illegible] sed movet [illegible]
dispensandum. 3a quae non solum movet, sed etiam obligat ad dispensandum, et facit debitam dispensationem.
[illegible] causa [illegible] dispensationem si certa aut probabilis sit, [illegible] huiusmodi causa [illegible] solum excusat
ut infirmitas aut alia necessitas [illegible] si autem [illegible] aut saltem probabilis, sed dubia [illegible]
[illegible] excusatio, [illegible] necessaria dispensatio vel declaratio superioris, ut lex desinat obligare, [illegible]
necessitate dubia [illegible] ad dubium dispensandi causa. 2a causa quamvis [illegible] non excusat ab implenda
observantia legis, nec obligat ad dispensandum, movet tamen dispensatorem ut licite possit dispensare [illegible]
Denique [illegible] requiritur ad dispensationem, quamvis saepe occurrit causa sufficiens ut dispensetur, [illegible]
[illegible] dispensator ut dispenset, [illegible] dispensatio [illegible]
Liberaliter loquendo iusta dispensandi causa est illa quae [illegible] legis [illegible] secundum prudentem
dispensantis [illegible] quidem ex circumstantiis, [illegible] capitibus deducuntur, [illegible] ex necessitate, utilitate, [illegible]
[illegible] pro tempore, loco, persona, [illegible] cap. fraternitatis
[illegible] cap. necessitatis [illegible] 23 q. 4. [illegible] cap. [illegible]
[illegible] relaxari, ut [illegible] utilitati [illegible]
[illegible]
[illegible]
[illegible]
[illegible] de legibus [illegible]

Sit necessaria cognitio causae [illegible] dispensatione.

Hinc provenit inquirere utrum debeat causa sufficiens ad licitam [illegible]
dispensationem concedendam, quae res licet [illegible] valde difficilis videatur sequenti discursu exponenda est. Si [illegible]
[illegible] fiat in lege propria, [illegible] licita debet esse [illegible] dispensanti, quia ut diximus [illegible] nulli licitum [illegible]
[illegible] absque causa, [illegible] dispensare [illegible] quamvis [illegible]
dispensatio [illegible] propria lege sine [illegible] illicite dispensat. Si autem dispensatio sit in lege aliena [illegible]
[illegible] sufficit [illegible] delegans [illegible] cognoscat causam [illegible] delegatus [illegible]
valide dispensat, [illegible] examinare [illegible] causam [illegible]
[illegible] licite et valide dispensat [illegible] delegata [illegible]
[illegible] dispensatio, vel dispensandi potestas [illegible] dispensandi sine causa

aut mentione causæ licite et valide erit dispensatio a delegato facta sine cognitione causæ, quia talis delegatus est voluntarius executor, et ordinarie praesumit delegans habere notitiam legitimæ causæ dispensationis, sicut omnes quod est tenendum habet in foro exteriori et judiciali, in foro autem conscientiæ non requiritur judicialis notitia causæ dispensandi, sed sufficit privata, et extrajudicialis, cum ea natura causæ non requiratur judicialis cognitio, et multo minus ... solitum ... formam judicialis, et multo minus ... servata, dispensatio igitur non requiritur forma ... aut instrumentum ... cognitione causæ dispensationis ... licita et valida in foro conscientiæ ... servatur quod dispensatio ... ad ... judicii ... ut ... dispensatio impedimentum matrimonii et alia similia [illegible] [illegible]

... 41 ... quia affirmant attento foro exteriori ... judiciali ... invalidatio, et ... dispensatio ... alio ipso dispensato; ... bandi, nisi causa ipsa sit notoria, et manifesta, tunc ... aliud examen causæ manifestæ ... et hic ... et tribunalia ... cognoscebant, ut ... valeat. ... plures alii ... [illegible] ... =

n.° 23.

Quaeritur exponendus utrum sufficiat causa dubia ad licitam, et validam dispensationem, et quae conditiones ... debet observari; Si ergo dubium sit de ipsa substantia causæ, ... ad sit vel non causa dispensandi, et vinculum legis, aut voti sit certum, dispensatio est illicita, et si sit in lege ... invalida indicatur, ratio quia ... dubitatur de ipsa substantia causæ, ... causa simpliciter, at extat ... obligatio legis, ... relaxare legem, ... respondeat, et in dubio melior sit conditio possidentis, et quia inferior nullum habet ... in superiori ... inferioris ... obedientiæ ... dictum, si autem ... certa dispensandi causa, et solum dubitatur de sufficientia causæ, dispensatio est licita, et valida ... habere potest ... quoniam frequenter accidit huiusmodi dubitatio ... et sufficientia causæ ad dispensandum, ... superioris certitudo est ... regimen, et angustiis, ac scrupulis plena, et de certa causa, in dubio adaequationis, et sufficientiæ illius videtur pendere potestas dispensativa, et in subditorum, qui sic ... legum ... et humanæ ... ; nemini praemiantur, et ... legislatores hac ... videntur ... ideoque subditus dubius ... rem totam exponat superiori, qui sic ... dispensat, tutus est subditus in conscientia utens dispensatione quamvis aliquae dubia ... dispensat de causa, ... expectat solum narrare ... absque aliqua fraude, sicque poterit dubio emergentia ... superioris, ut docet D. Thomas ... art. ... Sanchez in Summa lib. 4. cap. 45. n. 10 et alii plures ... relati n. 6. =

n.° 24

Similiter expedit inquirere quamnam efficiat debitam dispensationem ... licite dispensetur ... debitum in conscientia a superiori potente dispensare quamvis nullum ... ad quid tale obligat, quamvis superior ... si velit dispensare sufficiente causa, est ... multoties sola ... dispensare ex causa, ut accidit in impedimentis matrimonii in votis, in ieiunio ... festis et aliis pluribus, in quibus licet adsit causa honesta dispensandi, non ... ex debito et obligatione conscientiæ ... dispensatio ... Verum licet ... sit, ... dispensatio ... debita in conscientia ... legislatorem ita ut sub peccato dispensare teneatur in conscientia, veluti quando quis dispenset ex ... superior ... inferiori dispensationem mandans ut dispenset sub hac ... clausula si ... verum ... eadem quod denegatio dispensationis vocat graviter bonum ... , vel ... particularis ... ut ... Silvester 50 ... Denique quod fuerit necessaria ad spirituale bonum petentis, vel ad vitandum grave animæ periculum, vel ... tunc tenetur ... ex ... officii cui incumbit ... bono animarum subditi ... Silvester et alii plures quos refert, ... Coelicodex ... cap. ... n. 20 ubi affirmat ... quamvis dispensatio sit debita, si non ... superiori, ... subditus in conscientia ... auctoritate ... quoniam ... legislatoris ... ut ... animadvertit ... art. ... =

quod peccatum sit denegando debitam dispensationem.

Prosequendum restat explicare, quod peccatum inducatur [illegible] debitum dispensationis. Quamvis haec diff[icultas] obscura sit, si debitum dispensandi sit [illegible] dispensatio sit debitum erit per se et ex genere suo peccatum mortale, veluti in dispensatione debita de iure [illegible] [illegible] malis. [illegible] quia potestas dispensandi concessa superioribus in bonum subditorum, quoties dispensatio debitum ex iustitia, peccat mortaliter ex genere peccati [illegible] obligatio iustitiae [illegible] ex genere suo gravis sit, licet peccatum veniale ex levitate, seu parvitate materiae, quod [illegible] damnum illatum seu subiectum fuerit leve [illegible] [illegible]. † Si vero dispensatio sit debita ex sola misericordia dispensantis denegare [illegible] peccatum, vel solum veniale, quia hoc debitum non inducit gravem obligationem [illegible], nisi [illegible] in aliquo [illegible] [illegible] [illegible] grave peccatum, et [illegible] in extrema aut [illegible] sit. † Similiter etiam si dispensatio sit debita ex sola obedientia [illegible] [illegible] positivo denegatio erit grave vel leve peccatum [illegible] gravitate vel levitate materiae legis dispensandae, [illegible] dispensatio videtur respicere materiam legis, ideo [illegible] gravitas inducit debitum, ac obligationem dispensandi. [illegible] dispensationi a legislatore, † [illegible] adducit Thomas Sanchez [illegible] 8. de [illegible] disp. 10. n. 2. et 7. et [illegible] lib. 4. cap. 49. n. 7 et 8. Villalobos in Summa 1. p. tract. 13. diff. 25. n. 5 [illegible] plures [illegible] [illegible] [illegible] [illegible] haec dicta sufficiant [illegible], quo explanata maneat [illegible] [illegible], [illegible] in [illegible], [illegible] [illegible]. [illegible] gloria, nec non in [illegible] utilitatem. [illegible]

Ioannes [illegible] lib. 2. canonic. cap. 15. n. 30 [illegible] 1. [illegible] tract. 10 [illegible] 4.

† quando [illegible] [illegible] dispensationem [illegible] [illegible] in [illegible] [illegible] dicitur, [illegible] possit [illegible], [illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible].

[illegible] final [illegible] de [illegible]

[illegible] ... Cardinalis ... [illegible] ... verum ulterius fortitudinem et ... [illegible] ... beneficij ... ad Collationis ... tam quam ad fontem ... vacaturum ... [illegible] ... nec vacare nec ... [illegible] ... [illegible]

[illegible]

Cum quo [illegible] ... Mensis Januarij ... [illegible] ... Beneficia rescripta ... [illegible]

Debebit Literae Apostolicae super conferendo ben[eficio] ... [illegible] ... fere propriè ... tamen ... [illegible] ... cap. cum Capella 16. [illegible] 17. [illegible] de privilegijs ... [illegible] ... cap. Clericus 35. de iureiurando ... [illegible] ... Universitatis ... [illegible] ... Aquiliana 5. ff. de transact. ... [illegible] ... de pact. l. Rutilia Polla 65. l. in lege ... ff. de contrahenda empt. l. Aurelius ... [illegible] ... ff. de liberat. legata ... l. si filius 17. ff. de leg. 2. l. Julianus § fin. ff. de leg. 3. ... [illegible] ... Doctoribus, probant et illustrant ... [illegible] ... Scriptoribus Bartolus ... [illegible] ... de auro, et argento legato ... [illegible] ... Barbosa ... [illegible] ... 18. ff. soluto matrim. ... [illegible] ... et alij antiquiores ... [illegible] ... cap. ... de privilegijs ... [illegible] ... Barela, Bonifacius de Vitalinis, Paulus de Eleazar, et Immola ... [illegible] ... Benedictus Capra ... [illegible] ... extat in t. 6. tractatus ... folio 26. ... [illegible] ... moral. t. 6. cap. 33. ... [illegible] ... Gonçales ad reg. ... Cancellariae ... [illegible] ... Lara de anniversarijs, et Capellanijs lib. 1. cap. 16. n. 6. cum ... [illegible] ... Rebuffus in praxi beneficial. ... de forma Vicariatus Archiepiscorum n. 124. ... [illegible] ... Variar. ... [illegible] ... Carolus Molineus in Consuetud. ... [illegible] ... Junior ... [illegible] ... Mandosius ad regulas Cancellariae ... [illegible] ... et alij plures ... [illegible] ... Augustinus Barbosa in collect. ad ... [illegible]

n. 3.

[illegible] ... author ... [illegible] ... tamen ... [illegible] ... rescripti ad beneficia 1. vacatura ... [illegible] ... vacatura ... [illegible] ... beneficij ... [illegible] ... collationis ... [illegible]

Decem illius beneficij nondum ... [illegible]

[illegible]

n. 4.

[illegible] ... beneficij ... [illegible] ... tempus ... rescripti ... [illegible] ... n. 3. ... [illegible] ... [illegible] ... Constitutionem ... [illegible] ... Gregorianam ... [illegible] ... beneficia vacare ... [illegible] ... [illegible]

[illegible] rescriptum [illegible] Creatus [illegible] vacare [illegible] impetrare poterit [illegible] ad [illegible] antea, [illegible] vivente [illegible] rescripti [illegible]
[illegible] extat.

n. 5.

Denique quaerendum [illegible] erat rescriptum Apostolic[illegible] [illegible] valde obstat [illegible]

Concessum, et promissum beneficium [illegible] vacaturum [illegible] persona [illegible] cap. [illegible]
[illegible] quae docemur beneficium [illegible] vacantiam nec promitti [illegible] nec [illegible] persona [illegible]
[illegible] concessum [illegible] cap. dilecto [illegible] de praebendis, et dignitatibus [illegible]
[illegible] decernere [illegible] capitulis [illegible] reprobat [illegible]
[illegible]
[illegible] tamen [illegible]
[illegible] viceat [illegible]

[illegible] quando promissum vacare [illegible]

n. 6.

Cuius difficultatis [illegible] beneficii [illegible] vacaturi [illegible]
[illegible] principium [illegible]
[illegible] Cumque [illegible] rescripta [illegible]
[illegible] breviter notanda [illegible]
Academiae [illegible] rescriptum [illegible]
[illegible] rescripto [illegible] Imperatoris [illegible] probant [illegible]
[illegible] ff. de leg. 1. [illegible] 23. ff. de [illegible]
[illegible]
[illegible] ff. de appellat. recipiendis; quorum rescriptorum [illegible] l. Imperator [illegible]
[illegible] rescriptis [illegible]
[illegible] rubrica de rescriptis n. [illegible] quemadmodum rescripta inter [illegible]
[illegible] Imperialibus [illegible]
[illegible] l. [illegible] 23. ff. de [illegible] Alexandro [illegible] ff. de [illegible]
[illegible] Alexander ab Alexandro dierum genialium lib. 6. cap. 23. [illegible]
[illegible] mandata Apostolica, [illegible] nominibus [illegible] ut constat [illegible]
[illegible] de rescriptis, cap. de rescriptis [illegible]
[illegible] rescribere [illegible]
[illegible] Sahagun [illegible] n. 2.

n. 7.

Rursus [illegible] rescripta varie a diversis mo[illegible]
ab scriptoribus definiri solere [illegible] a [illegible] rubrica de rescriptis n. 2. [illegible]
[illegible] de rescriptis [illegible] n. 22. [illegible] moralium [illegible] cap. [illegible]
[illegible] aliter rescripta [illegible]
[illegible] rescripta [illegible] quibus Principes, aut alter superior [illegible]
supplici [illegible] aut [illegible] respondent, [illegible] definitionem tradunt [illegible] de rescriptis
cap. 1. n. 4. [illegible] cap. 5. [illegible] alius ab illis [illegible] sequitur [illegible]
singula [illegible] docte [illegible] explicat, [illegible]
[illegible] Arias de Mesa [illegible] rubrica de rescriptis [illegible] n. 15. Cum quinque [illegible] tres tamen [illegible]
hic breviter [illegible] rescripti definitionem [illegible]

n. 8.

Deinde animadvertendum [illegible] varia rescripta [illegible]
inveniri; [illegible] generalia, [illegible] singularia, [illegible] generalia [illegible]
rescriptis, cap. [illegible] 23. [illegible] de rescriptis, cap. [illegible] gratiosa [illegible] cap. [illegible]
[illegible] rescripta [illegible] cap. [illegible] de crimine falsi [illegible]

[illegible] rescripti [illegible] inter [illegible] [illegible] cum [illegible]
[illegible] rescripti [illegible] [illegible] publicam [illegible]
[illegible] rescriptis [illegible] graduali [illegible] qui ad benefic. [illegible]
[illegible] Principij cap. quamvis [illegible]
[illegible] [illegible] Menoquius [illegible]
[illegible] inter rescripta Petrus Greg. [illegible]
[illegible] qui res diffus. [illegible]

[illegible]

[illegible] concedit [illegible] Pimentel [illegible] Joannes Driedo [illegible] de liber. [illegible] Gallia, Neapoli, et in aliis [illegible]

[illegible] Fusana pag. 285. Cell. grad. 33. cap. [illegible] n.o 4. [illegible]
[illegible] practicari asserunt [illegible]

No 10.

[illegible] rescripti Apostolici super conferendo beneficio [illegible]
[illegible] multiplica [illegible] ut [illegible]
[illegible] Mandos [illegible] Gonzalez [illegible] Cavallinus [illegible]
[illegible] a Velasco [illegible] Barbosa [illegible]
[illegible] vacaturi [illegible]
[illegible] noviter creata [illegible] certo vacationis [illegible] beneficij vacaturi [illegible]
[illegible] potest in benefic. de novo creatis [illegible] minime [illegible] si quidem
[illegible] agendus [illegible] ad [illegible] Despensat. [illegible]
[illegible] decem [illegible] post [illegible] Cancellar. [illegible] rescript. Apostolicum
[illegible] beneficio vacaturo [illegible] de novo creata [illegible]
[illegible] creandis, si [illegible]
[illegible] Abbatimus [illegible]
[illegible] [illegible] Gonzalez [illegible] Cancellariae [illegible]
[illegible] Menoquius [illegible] Consiliorum [illegible]
ad finem Ferrarius Consil. [illegible]

Verum non obstant [illegible] dubitandi rationes adversus [illegible]

No 11.

Super [illegible] [illegible] impetratis rescripti, de novo [illegible] beneficia [illegible] creata, [illegible]
[illegible] postea [illegible] benefic. de noviter creatis [illegible] vacans [illegible]
[illegible] rescripto [illegible] beneficij vacantis [illegible] favorabile [illegible] beneficij vacantis
[illegible] Concedendus [illegible] aliud [illegible] benefic. vacans [illegible] vacaturum, licet [illegible] benefic. post rescript. [illegible]
[illegible] creatus vacans [illegible] tamen [illegible] tale beneficium vacaturum [illegible] aliquis [illegible]
[illegible] beneficium [illegible] permutationis vacans [illegible] debet [illegible] cap. unico de rerum permutatione [illegible]
[illegible] similiter [illegible] benefic. de novo creatum licet vacet [illegible]
[illegible] habet ad benefic. vacaturum [illegible] tale benefic. [illegible]
Nec [illegible] obstat [illegible] beneficium non [illegible] creatum vacare, nec [illegible]
[illegible] vacationis beneficij [illegible] creationis [illegible] sed [illegible] benefic. [illegible]
[illegible] promitter poterit [illegible] beneficia [illegible] vacaturis [illegible] benefic. [illegible]
[illegible] vacare [illegible] quibus [illegible] [illegible] accedere

[illegible] plenius [illegible] Vitalinus [illegible] n° 5. =

n° 12.

Difficultatem [illegible] habere [illegible] adversus [illegible] adductas ex [illegible] cap. [illegible] ex quibus [illegible] tempus [illegible] potius spectari, et inspiciendum [illegible] nihil [illegible] tempus quo fuit rescriptum impetratum [illegible] rescriptum praesentare post [illegible] beneficium [illegible] creatum [illegible] illud [illegible] solere [illegible] antequam [illegible] Clericus [illegible] cap. [illegible] de [illegible] cap. [illegible] de decimis [illegible] de [illegible] 26. ff. de [illegible] rescripta [illegible] [illegible] ff. [illegible]

[illegible] 12. [illegible] Vitalinus [illegible] Decius [illegible] Cancellariae [illegible] 26. n° 7. et [illegible] 9. [illegible]

[illegible] Et [illegible] tempus [illegible] exequendi [illegible] executionis [illegible] tempus [illegible] impetratum [illegible] vacantis [illegible] rescriptum [illegible] cap. [illegible] 9. de appellat. [illegible] Molina [illegible] cap. 7. n° 5[illegible] tempus [illegible] 28. [illegible] Litterarum [illegible] 9. [illegible] 7. cap. [illegible] 12. [illegible] 29. de [illegible] Francus [illegible] n° 9. [illegible] Collationibus [illegible] Cardinalis [illegible] n° 24. [illegible] Vitalinus [illegible] n° 33. et 34. =

n° [illegible]

Denique non obstat [illegible] quae dicebamus [illegible] rescriptum [illegible] beneficii [illegible] ante [illegible] creata [illegible] dicimus [illegible] Difficultati [illegible] dicendo [illegible] beneficii [illegible] vacantis [illegible] simpliciter, et absolute promittatur beneficium vacaturum [illegible] quoniam tunc [illegible] aperte constat [illegible] Vitalinus [illegible] Cardinalis Zabarela [illegible] [illegible] casu, quo [illegible] fit [illegible] casu [illegible] adductis [illegible] dicamus [illegible] obstat [illegible] dicendo [illegible] [illegible] beneficii [illegible] vacantis habeat [illegible] casu, quo tale beneficium vacaverit [illegible] rescripti [illegible] Cardinalis Zabarela [illegible] vacans [illegible] =

[Margin notes:] [illegible] recta [illegible] =
[illegible] beneficii [illegible] =
[illegible]

n.° [illegible]

Cum [illegible] aeque causa decidenda [illegible]

[illegible] ad textum in cap. 22 de privilegiis, ubi [illegible] Londonensis [illegible] monachis monasterii [illegible] decimas, quas alias [illegible] dignitatis [illegible] occupant, decessit Archiepiscopus, qui [illegible] privilegium [illegible] successore [illegible] extenderetur, an [illegible] exempti [illegible] decimas [illegible] antea [illegible] aut postea [illegible]

[illegible]

[illegible] creata.

[illegible] anno [illegible] cap. [illegible]

[illegible] Capitulares [illegible]

[illegible] vera [illegible] decisio. [illegible] Belogens. [illegible]

Quare [illegible] breviter, [illegible] tuae [illegible]

n.° 26.

[illegible] de privilegiis [illegible] decimas [illegible] solvendis [illegible]

[illegible] tiranni tali casu [illegible] mala [illegible] damna, si forte [illegible] ad beneficia [illegible] vacatura [illegible] de novo creata [illegible] vacat [illegible] beneficii vacaturi [illegible] creato, cum illud vacare minime bene intelligatur [illegible] numquam [illegible] adhuc [illegible] beneficiis creatis [illegible] modo beneficiis vacantibus [illegible] numerent, [illegible] cap. [illegible] Burfatus [illegible] 362. [illegible] Abbas [illegible] de rescriptis [illegible] de privilegiis [illegible] n.° 4 [illegible] in [illegible]

n.° 27.

Plurimis ex [illegible] decidendis [illegible] vera [illegible]

dum [illegible] illustre [illegible] decretum [illegible] elegantissima [illegible] expectantibus [illegible] de novo creatis [illegible] expectantiae [illegible] ad beneficia vacatura [illegible] ad beneficia de novo creata [illegible] beneficiis [illegible] aliqua [illegible] quam [illegible] de novo creatio, sed [illegible] antiquarum [illegible] canonicis fuit statutum, ut [illegible] post ea [illegible] antiquarum [illegible] canonicatus [illegible] creatio [illegible] exspectantes [illegible] admitti [illegible] beneficia [illegible] postea creatis [illegible] beneficii [illegible] ad [illegible] de novo creata [illegible] canonicis [illegible] canonicatus [illegible] providere [illegible] beneficia [illegible] providere teneatur [illegible]

[illegible] grau[illegible] [illegible] Cat. [illegible] Similiter Canonici [illegible]
[illegible] tenent [illegible] vacaturas [illegible]
Consiliis [illegible] Canonicos [illegible]
[illegible] Sacra Rota [illegible]
[illegible] ut [illegible] officiales [illegible]
[illegible] de libere, exsecutionem suo loci [illegible]
[illegible] collect. ad [illegible]

Deinde [illegible]

n.º 28.

[illegible] cap. 20. [illegible] condit. [illegible]
[illegible] n.º 4. [illegible] 36. [illegible] 26. [illegible] litteras [illegible]
[illegible] Vitalini [illegible] n.º 20. [illegible] 36. [illegible]
[illegible] Cancellariae [illegible] n.º 4. [illegible]
[illegible] n.º 24. [illegible] Cancellariae [illegible]
[illegible] n.º 2. de [illegible] 107. [illegible] collect. [illegible]
[illegible] Bonifacii et Vitalini Cardinalis Zabarellae [illegible]
eleganter Barbosa in collectaneis ad [illegible] =

Amplius [illegible] adver[illegible] quod

n.º 29.

asserit litt. Rom. [illegible] ad [illegible] beneficia [illegible] cathedralis noviter creata [illegible] adeo [illegible]
in [illegible] litterarum tractat. [illegible] ordinarii [illegible] de disponendo et instituendo tali beneficio, nihilominus bene [illegible]
[illegible] gratia [illegible] propterea [illegible] effectum [illegible]
[illegible] eadem servanda [illegible] cap. [illegible] 6. [illegible] c. [illegible] 10. [illegible] appellat. 26. [illegible]
[illegible] dat. [illegible] Creatis [illegible] ut hac [illegible]
[illegible] 39. de Consecrat. [illegible] cap. 8. de Consecrat. [illegible]
[illegible] Vitalini [illegible] n.º 6. [illegible] Zabarella [illegible] n.º 8. [illegible] adversus [illegible]
[illegible] alia plura, quae nunc [illegible] videri [illegible] =

Denique ut nihil [illegible] expectari [illegible]

n.º 30.

V. Controversiae [illegible]

[illegible] velle [illegible] aliquam [illegible] in [illegible]
ad eorum antiquo erat statutum confirmet. [illegible] nova [illegible] Stat[illegible]
[illegible] statuere novum [illegible] quod antiquo erat [illegible] confirmare [illegible] de [illegible] alia [illegible]
[illegible] advertimus. = Nec [illegible] statuum [illegible] licet [illegible] Julia [illegible]
[illegible] statuimus [illegible] et alia [illegible] denotare videantur [illegible]
cant [illegible] declarationi [illegible] alia [illegible]
[illegible] decernimus [illegible] Clementis [illegible]
[illegible] ad [illegible] Beatae Mariae semper Virginis, [illegible] Mariae [illegible] ab originali peccato [illegible]
[illegible] omnia cedant =

[illegible] ad [illegible] in [illegible] de [illegible]

Ilm p. d. [illegible]

Inter nomina [illegible] ... nostri [illegible]
[illegible] Clarissimi auditores nobis [illegible] ... [illegible]
Secundus [illegible] ... [illegible] ... [illegible]
audaci [illegible] de off. iudicis ord. [illegible] ... concernit, quod alia [illegible] erant [illegible]
Itaque [illegible] Clerici [illegible] de illa iurisdict. et potest. quam [illegible] Ordinarius, hoc est [illegible]
in suos Subditos habet, amplius inquiri ut [illegible] ... Criminum [illegible] ... qui perpetrati sunt [illegible]
[illegible] ut et ipsi metu pen. a talibus arceantur, et alii [illegible] exemplo [illegible] ... similia [illegible]
non.

Verum ut tantam [illegible] ... [illegible]
[illegible] generalis [illegible] ... [illegible] conclusio [illegible]
[illegible] corrigere Clericos excessus [illegible] ... [illegible]
[illegible] ... [illegible] cap. [illegible] ... cap. [illegible] 16. cap.
[illegible]
[illegible] ab homine 10. cap. [illegible] 15. [illegible] de iudiciis, cap. [illegible] cap. cum [illegible] ...
[illegible] cap. cum [illegible] 12. [illegible] 13 [illegible] de haereticis, cap. cum [illegible] ...
de off. ordinarii tit. 6. cap. 1. [illegible] cap. [illegible] cap. denique 3. 6. q. 3. [illegible] ...
Clericis. L. [illegible] 33. [illegible] C. de episcopis et Clericis [illegible] ... 13. [illegible] de [illegible]
et denique [illegible] 6. cap. 3. de reformat. [illegible] 24. [illegible] de reformat. [illegible] ...
[illegible] Cardinalis Zabarella, Bonifacius de Vitalinis, Imola, et alii antiquiores [illegible] ...
[illegible] Panormitanus, Hostiensis, Felinus, et [illegible] Andreas [illegible] ...
[illegible] ... de off. iudicis Ordinarii [illegible] ... [illegible]
[illegible] 16. de off. iudicis Ordinarii cap. [illegible] Salcedo in [illegible] Canonica cap. 3. [illegible] Litt. A. [illegible]
[illegible] 83. [illegible] 43. n. 181. cum pluribus [illegible] Menochius [illegible] 2. de praesumptionibus [illegible] 46. [illegible]
[illegible] ... [illegible] animadversionis cap. 9. [illegible] ... [illegible]
[illegible] communis [illegible] de Balboa in repet. [illegible] ... cap. cum [illegible] ab homine 10. [illegible] n. [illegible]
[illegible] ... [illegible] Barbosa [illegible] ...
n. 6. et alleg. [illegible] 80. n. 1. [illegible] ... [illegible] ... [illegible]
Barbosa in [illegible] ... [illegible]

n. 3.

Sed licet hic [illegible] tot authoritatibus confirmata [illegible] ...
Sequens dubitandi [illegible] ... [illegible] ...
Subditorum crimina, et corrigendi [illegible] ... [illegible] ... [illegible]
[illegible] Archiepiscopo [illegible] ... Clericis 46. [illegible] ... [illegible]
[illegible] Vincentem [illegible] Vincante [illegible] ... [illegible]
et temporalibus [illegible] ... de Successionibus [illegible] ... [illegible]
[illegible] Subditos suos Vincant [illegible] ... ab Archiepiscopo [illegible] ...
[illegible] ... [illegible] ... [illegible]
[illegible] ... [illegible] ... 21 [illegible]
[illegible] ... potestatis [illegible] Subditis Archiepiscopi [illegible] ...
[illegible] ... [illegible]

[illegible]

Secunda [illegible] ... [illegible]
[illegible] ... [illegible] Clericorum [illegible] ... controversias
[illegible] ... 6. 15. q. 7. [illegible] ... [illegible] Clericorum
[illegible] Sententia [illegible] ... [illegible] praesentia [illegible] cap. [illegible] ... [illegible]
[illegible] Crimina inquirere, et punire [illegible] ... Clericalis [illegible] ...
[illegible] ... Criminis Clericorum [illegible] ...
[illegible] ... [illegible] ...
cap. cum ab Ecclesiarum 3. [illegible] ... Sancti [illegible] Clericos, vel laicos [illegible]
[illegible] ... [illegible] ... de off. iudicis Ordinarii,
[illegible] ... [illegible] ... [illegible]

[illegible] ... de [illegible] ... realis [illegible]

[illegible] ... ad proprios [illegible]

[illegible] ... generaliter [illegible] ... criminibus [illegible]

[illegible]

Praelatos in [illegible] ... habentes [illegible]

[illegible] ... habent, alius [illegible]

[illegible] ... de iurisd. omn. iudic. l. 1. §. penult. ff. de iudiciis, l. aut [illegible] ... docet [illegible] ... 17. comment. cap. [illegible]

[illegible] ... iudicis genera referri videantur [illegible] ... l. penult. [illegible] ... de iudiciis, [illegible] ... explicat [illegible]

[illegible] 12. ad haec duo reduci possunt [illegible] ... iudicis [illegible]

[illegible] ... iudices Ordinarii [illegible] ... in hoc [illegible] ... iudicis Ordinarii [illegible]

[illegible] ... delegati [illegible] ... de off. [illegible] ... iudicis delegati, notat Molina [illegible]

[illegible] 8. n. [illegible] ... iudicis [illegible]

Barbosa in l. cum [illegible] 12. §. 1. n. 23 [illegible] ... ff. de iudiciis, [illegible] ... 17. comment. cap. [illegible]

Cuiacius [illegible] ... ad [illegible] ff. de Orig. iuris [illegible]

n. 27.

[illegible] ... de tribunali, [illegible]

[illegible]

[illegible]

[illegible] ... Molina [illegible] ... iurisd. [illegible]

[illegible] ... Barbosa [illegible]

n. 28.

[illegible] ... generalis [illegible]

[illegible] ... Romano [illegible] ... Suarez [illegible]

[illegible] ... Romano Pontifice [illegible]

[illegible] ... S. Ambros. [illegible]

[illegible]

[illegible] tanquam exercere [illegible] [illegible] Romanae [illegible]

[illegible]

[illegible] curato a Vag[illegible] recipere, confirmare [illegible], beneficia [illegible] [illegible]

[illegible] colligi potest [illegible] exercere [illegible] valide, licet [illegible]

[illegible] [illegible] Xvalg. [illegible] 5. cap. [illegible]

[illegible] ad quam vero [illegible] opinionis Literarum [illegible]

[illegible] omnia [illegible] tradantur [illegible]

[illegible] cap. 12. n. 2. Garcia de benef. [illegible] c. 4. [illegible] Barbosa [illegible] cap. [illegible] n. 6. [illegible]

[illegible] Flaminius, et [illegible] [illegible] Barbosa [illegible]. =

n. 5.

Denique [illegible]

[illegible]

[illegible] primitus [illegible] clericos eximi [illegible] saeculari [illegible] ut stat [illegible] Constantinus [illegible] l. 2. C. [illegible]

[illegible] Baronius anno [illegible] n. 5. [illegible] Romani [illegible]

[illegible] clericos saecularibus [illegible] tributa [illegible]

[illegible] de immunitate Ecclesiarum cap. [illegible] cap. clericis [illegible] qui clericos [illegible]

[illegible] primitus [illegible]

habuisse [illegible] tempore [illegible] [illegible] Hermannus [illegible] cap. [illegible] n. 13. [illegible]

[illegible] [illegible] [illegible]

[illegible] cap. [illegible] n. 12. [illegible] 17. [illegible]

[illegible] n. 22. [illegible] Thomas Sanchez [illegible] n. 32. [illegible]

[illegible] 27. [illegible]

privilegia [illegible] Decius [illegible]. =

n. 6.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] Romana [illegible]

[illegible] n. 2. [illegible] Sacra Scriptura [illegible]

[illegible] cap. [illegible] 96. [illegible] 57 [illegible]

[illegible] privilegiis [illegible]

[illegible] cap. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] pertinere [illegible] cognitio criminum à Clericis perpetratorum [illegible]

[illegible]

[illegible] Vincentianus [illegible] forbon [illegible]

habet [illegible] generaliter [illegible] speciali [illegible] nec magis [illegible]

[illegible] Clericorum [illegible]

[illegible] quae adducit [illegible] 84 [illegible] Apostolicae [illegible]

Nec [illegible] Clericorum [illegible]

[illegible] crimina [illegible] Clericorum [illegible]

[illegible] Princeps [illegible] Principum [illegible]

[illegible]

Denique [illegible] diversae [illegible]

[illegible] Clericorum [illegible] punire [illegible]

[illegible] doctrina [illegible] quod licet verum sit [illegible] Clerici [illegible]

[illegible]

[illegible] Clericorum [illegible]

[illegible] Clerici [illegible]

[illegible]

Ex quibus [illegible] Decidendi [illegible] [illegible] de Benedicto [illegible] ex [illegible] aperte colligitur quendam [illegible] Benedictus [illegible] [illegible] tracti [illegible] quolibet [illegible] Pelagius [illegible] [illegible] et in defensione [illegible] secularem [illegible] [illegible]

[illegible]

[illegible] nam [illegible] ecclesiastici [illegible] [illegible] [illegible] Ordinarii [illegible]

adulterio [illegible] Benedicto [illegible] ecclesiastici tenentur remittere illos ad seculares iudices, [illegible] adulterii [illegible] Pelagius [illegible] [illegible] de adulteriis [illegible] adulterii [illegible] [illegible] ecclesiastici adulteros remittere [illegible] adulterii [illegible] [illegible] criminibus [illegible] [illegible] tradunt Augustinus Germonius [illegible]

Denique [illegible] plura [illegible]

n.º 16.

[illegible] Andreas [illegible] Bonifacius [illegible] Quaeres [illegible] [illegible] Bonifacius [illegible] Vitalinus, Cardinalis Zabarella [illegible] [illegible] [illegible] [illegible]

[illegible]

Die lecta 18 mensis in Cl... 2. lesse...
et qualit... ... 28 ~~decembr~~
novemb. anno ... 45

... Goriofhu ...
... Vrdiegho
Collegam.

[illegible] ordinatus ordinatum Nascentis Ecclesiae institutis, que [illegible] et [illegible] Ecclesiae [illegible]
[illegible] Sacramentum [illegible] docet [illegible] anno 44 n.° 33 et [illegible]
Diaconatus, ordo Sacer [illegible] in tempore Nascentis Ecclesiae [illegible] diaconos [illegible]
ordinatos nullo modo possent [illegible] operare. Constat ex [illegible] anno 58. n.° 9.

Clemens [illegible] in Clem.ª ut si in 2. de statu [illegible] equaliter [illegible] ita fatur ut hique divinis in Cathedralibus [illegible] Collegiatis [illegible] Pastore [illegible] Cathedralis sive Collegiatis, secularis, aut regularis [illegible] adfuerunt quidam exclamandi in sacris [illegible] nomina [illegible] convenire super [illegible] celebranda [illegible] sacris initiati ordinibus [illegible] Romano [illegible] non sunt sacris remanebant ordinibus. [illegible] Julio [illegible] Clemens [illegible]

itaque quoad hunc actis ab [illegible] numero separandos [illegible] ceteros Canonicos [illegible] habeant, ita ut ad minus [illegible] pendit [illegible], ut omnes illi qui in [illegible] fuerint [illegible] possint. = Progreditur [illegible] Clemens [illegible] dignitati [illegible] ordinibus [illegible] non accipiant [illegible] capitulo [illegible] docet Clemens [illegible] superque [illegible] residentia [illegible] Delicti. Hoc [illegible] Clemens [illegible] ex qua nemo [illegible] quare primam [illegible] aggreditur. [illegible] postea [illegible]

[illegible] integram [illegible] Clemens [illegible] ad veteri [illegible] erat [illegible] Clementis [illegible] [illegible] ad veteri [illegible] in medio [illegible] veteri [illegible] Clementis [illegible] necessario sacri ordinis [illegible] Capitulares [illegible] temporalibus [illegible] nulli [illegible] [illegible] Rincius in practica aurea [illegible] [illegible] veteri observaretur [illegible] ordinibus [illegible] Mancipati [illegible] [illegible] Gerola in practica episcopali [illegible] veteri observabatur ordinibus [illegible] libere postea [illegible] in sacris [illegible] [illegible] nec alia [illegible] Clemens [illegible] [illegible] Capitulo [illegible] habent [illegible] Capitulo [illegible]

[illegible] Collegiatis secularibus, aut regularibus [illegible] subdiaconatus ordinem [illegible] accipiant vocem in Capitulo [illegible] decisio, quae cum [illegible] de Avarcamo, Joannes de Imola, [illegible] [illegible] de restitutione [illegible] c. 42. [illegible] 23. Rincius in practica aurea resolut. [illegible] Gerola in practica episcopali [illegible] benef. [illegible] 8. Nicolaus Garcia de beneficiis [illegible] [illegible] de [illegible] Lib. 3. cap. 11 § 20. Navarr. in manuali cap. 8 [illegible] Pontificii Lib. 1. [illegible] 30. [illegible] Barbosa in [illegible] Juris Pontificii [illegible] Hieronymus [illegible] 12 § 1. nº 22. [illegible] plures alij [illegible] Lib. 7. [illegible] 10. nº 9. Sebastianus Caesar. [illegible] ecclesiastico [illegible]

quos laudat Barbosa in collectaneis ad Jure [illegible] rationes dubitandi [illegible] propono clementis [illegible] ut vocem in capitulo

[illegible] decisio desiderat sacris initiari ordinibus [illegible] divini [illegible] officijs, ut vocem in capitulo [illegible] ordine in sacris [illegible]

habeat ~~[illegible]~~ atqui [illegible] quolibet [illegible] ordine [illegible] spiritualis potestas

[illegible] quilibet ordo sacer nuncupatur [illegible] sit sacrum signum per [illegible] traditur ordinato spiritualis potestas [illegible] distinct. 24. et notatur a Gratiano in 23 dist.

et [illegible] ut docent communiter interpretes in [illegible] sentent. distinct. [illegible] et quilibet ordo sacer sit [illegible] frustra

ergo [illegible] clemens quintus [illegible] ordinis sacris [illegible] vocem in capitulo habeat = Augetur haec

[illegible] subdiaconatus ordinis ad hoc [illegible] vocem in capitulo [illegible] probatur in [illegible] Constantia

dubitandi ratio ex [illegible] in cap. scriptus 40. [illegible] electores admissos fuisse septem Prepositus [illegible]

[illegible] de omni [illegible] praeter Canonicos electores [illegible] de Capitulo [illegible] possint de consensu Capituli [illegible]

[illegible] Cummana [illegible] ergo [illegible] de Capitulo [illegible] quanto magis debebit communicare vocem in capitulo

participare, [illegible] sacris [illegible] sint [illegible] quanto magis [illegible] accedat [illegible] non debeant esse

illius [illegible] capituli corpore sint [illegible] se contineri [illegible] accedat [illegible] sunt [illegible] ex illo sunt.

melioris conditionis illi [illegible] extranei, [illegible] in capitulo sunt [illegible] Quae dubitandi [illegible] in primis

[illegible] non obstante [illegible] est. [illegible] Clementis [illegible] decisio [illegible] cognit. [illegible]

[illegible] est. Clemens 5. recte apposuisse exemplum in subdiaconatus ordine quis sacris et [illegible]

[illegible] Domino institutum sacramentum docent Vazquez 3. p. disp. 238. cap. 2º [illegible] de sacram.

[illegible] ordinis [illegible] valde controversum sit [illegible] incepisset sacer esse [illegible]

[illegible] certum est ex tempore Leonis [illegible] gubernavit ecclesiam ex anno 440. [illegible] ad annum 461

[illegible] in cap. 1. 32 distinct. [illegible] constituit ut votum castitatis emittat [illegible] subdia-

conatus acceperit ordinem [illegible] recepta [illegible] fuisset [illegible]

[illegible] in cap. ante [illegible] 31 distinct. [illegible]

Lib. 1° [illegible] cap.° [illegible] 9° [illegible] requiri constituens [illegible] etc. [illegible]

[illegible] a multis de aetate et qualitate [illegible] ecclesiastico [illegible] lib. 1° cap. 37 [illegible]

subdiaconis n° [illegible] et [illegible] [illegible] Barbosa [illegible] n. 6 [illegible]

~~[illegible] pro ordinandis [illegible] a multis [illegible] de aetate et qualitate~~

~~[illegible]~~ [illegible] nullus in episcopum eligi posse nisi qui in sacris ordinibus constitutus

[illegible] [illegible] sacros ordines esse diaconatum et presbyteratum [illegible]

subdiaconatum et [illegible] [illegible] ecclesiae [illegible]

[illegible] tamen non erat sacer [illegible] diaconatus ordo [illegible]

[illegible] a multis de aetate et qualitate [illegible] quatenus [illegible]

[illegible] subdiaconatus ordinis [illegible] [illegible] Urbani [illegible]

[illegible] sacrum esse [illegible] auctoritas [illegible] Leonis et [illegible] Gregorii [illegible]

[illegible] in concilio [illegible] [illegible] [illegible]

[illegible] [illegible] sacros ordines subdiaconatus ordinem esse [illegible] ita docent

[illegible] [illegible] relictis [illegible] de subdiaconis § 1 n° 8. [illegible]

in [illegible] lib. 5°. cap. 40. [illegible] plura circa hanc [illegible] tractarunt [illegible]

diaconatus ordinem sacrum esse [illegible] Clemens 5us quatenus desiderat sacros ordines in

[illegible] in capitulo recte [illegible] exemplum in subdiaconatus ordine. [illegible] [illegible]

maximum detrimentum ecclesiis imminere cum personae non idoneae eis inserviere [illegible]

[illegible] Canonicus [illegible] habeat in capitulo [illegible] quis alicui ecclesiae praeficiendus sit qua [illegible]

[illegible] imprimis scientia [illegible] mores [illegible] aetas denique [illegible] ordo [illegible]

[illegible] [illegible], scientia [illegible] debet esse [illegible] ut semper admittendus [illegible]

[illegible] [illegible] quibus non sufficien[illegible] [illegible] [illegible] est [illegible]

[illegible] [illegible] offerre [illegible] anni [illegible] [illegible] sent. [illegible] est [illegible]

[illegible] beneficium offerre [illegible] [illegible] Navarra [illegible] [illegible] cap.

n° 117. [illegible] [illegible] est [illegible] obtineat in Canonicatibus et aliis quibusque

[illegible] [illegible] sent. [illegible] 2.2. [illegible] 9. 63. plura [illegible] videat [illegible]

[illegible] lib. 2 [illegible] Conn[illegible] [illegible] Iuris [illegible] § 7 n° 4 et 5. [illegible]

[illegible] [illegible] congessit [illegible] in collectaneis ad Decretales collectanea 56. quo in ca[illegible]

[illegible] [illegible] ut ecclesiastica beneficia sine [illegible] cap. 30 [illegible]

Concil. Trident. sess. 24 de reformat. cap. 1°. et cap. 18. plures circa [illegible] sacrae paginae aut-

oritates [illegible] de potestate Episcopi cap. 40 § 13 n° 2. [illegible] [illegible]

[illegible] nec [illegible] ministri ecclesiae intelligantur electi ut ministrent [illegible]

[illegible] cum maxima reverentia [illegible] [illegible] esse [illegible] inductos [illegible]

[illegible] [illegible] maxima cum [illegible] officium ecclesiasticum exercere [illegible]

[illegible] de [illegible] et Cardinalibus [illegible] in Clem. 1a [illegible] de aetate et quali-

[illegible] requiritur aetas quae [illegible] temporum varietate diversimoda fuit [illegible]

[illegible] [illegible] episcopali [illegible] Carona [illegible] 9° hodie [illegible] illa aetas requi-

[illegible] dignitas seu beneficium cui ordo annexus est [illegible] Concilii Trident. de

sess. 23 cap. 6° de reformat. [illegible] inter alia statuit [illegible] Canonicatus [illegible]

[illegible] sufficere. [illegible] requiritur ordo subdiaconatus [illegible]

[illegible] capitulo [illegible] [illegible] qualitate [illegible] Clemens in praesenti [illegible]

[illegible] [illegible] in capitulo habere nisi qui ad minus in subdiaconatus or-

[illegible] [illegible] [illegible] est. Atque [illegible] videbatur non ord[illegible]

[illegible] sacro ordini [illegible] ecclesiasticis adesse. Ut [illegible] ex [illegible] in cap.

satis evidentius c. 96. dist. ubi refert Patriarcham Theodosii minore rescriptis esse Constantinopolitanae Ecclesiae dignitatem fuisse Candidatum [illegible] Communis Ut rebus aliquibus adesset non [illegible] sacris se immisceret hoc namque [illegible] [illegible] Theodosii [illegible] rationi accedit, et illa consideratio quod traducit [illegible] quoniam [illegible] eligere Episcopi sub diacono non [illegible] [illegible] in ordine Episcopatus cap. nullus 4. 60 distinct. ita neque ipse Episcopus eligat [illegible] suennunt [illegible], et eligere [illegible] accedit [illegible] [illegible] [illegible] alia ratio quia sicut inter Cardinales qui contra [illegible] eligunt nullus est quod non sit saltem diaconus ita inter Canonicos nullus debet esse quod sit sub diacono non sit, cum eligant Episcopum quibus de causis agere cognoscitur recte in praesenti [illegible] [illegible] [illegible] in Capitulo ergo [illegible] ordine constitutus [illegible], ita docent Bonifacius de [illegible] in praesenti n. 8, et Zavarila n. 7.

Unde [illegible] obstat ratio dubitandi supra adducta neque distinguendum est, dupliciter assumi hoc verbum ordo sacer. Large sumitur omni ordini accommodatur neque [illegible] ordo large sacer dicitur cap. quicumque 5[illegible] distinct. et cap. nullus 28. q. 1. Verum quod stricte sumitur hinc enim ordo sacer tantum modo [illegible] sacros ceteri sacri non sunt cap. [illegible] 32 dist. docent Zavarila [illegible] 8 et Bonifacius de [illegible] n. 10. Neque obstat [illegible] dubitandi [illegible] de dicto cap. scriptum 40 de elect. distinguendum est enim inter eum qui admittitur tamquam singularis persona et inter eum qui admittitur tamquam [illegible] de Capitulo ille ergo qui admittitur tamquam singularis persona cum comprehenditur decret. [illegible] qui loquitur de his qui [illegible] sunt [illegible] habet locum in illis qui de Capitulo sunt ita docet Cardinalis [illegible] [illegible] Zavarila n. 6. [illegible] adhuc obstat illa consideratio quod [illegible] decisio indistincte [illegible] generaliter statuit quod nullus posset habere vocem in capitulo nisi sit in sacris ordinat[us] [illegible] generaliter loquitur eodem modo debet intelligi [illegible] [illegible] generaliter [illegible] [illegible] extraneos excipere non debemus [illegible] [illegible] [illegible] restringi [illegible], et verbis decisionis ad [illegible] [illegible] illud verbum generale nullus restringi [illegible], et verbis [illegible] ad [illegible] quod deputantur divinis officiis in Cathedralibus ecclesiis et [illegible]. Ut obstat [illegible] decretum esse generale et sic restringendum esse ex eisdem decisionis verbis accedit cap. ordin. de reg. iuris lib. 6.

Ex quo deducendum erat. In primis [illegible] [illegible] [illegible] ex eo quod 32 de elect. et electi potestate [illegible] cuius specie ac difficultatis ut [illegible] tamquam illud principium proponere expedit scilicet omnes qui habent vocem in electione sive sint absentes debere vocari praesentes [illegible] [illegible] absentes vocati non fuerint celebratum hinc fuerit electio non valet [illegible] [illegible] quod sicut [illegible] in Civitate [illegible] hoc eveniet vacavit eiusdem civitatis ecclesia [illegible] [illegible] eligendi [illegible] [illegible] Canonici erant [illegible] [illegible] [illegible] [illegible] [illegible] Canonicus autem eo non vocato [illegible] electionem fecerunt [illegible] [illegible] Canonicus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Bonifacius [illegible] [illegible] electio [illegible] [illegible] [illegible] [illegible] valida [illegible] [illegible] [illegible] constitut[ione] [illegible] electionem nulla facta mentione de ordine sacro [illegible] [illegible] dato [illegible] [illegible] ad vocem exercendam in capitulo requirebatur [illegible] ad vocem capitularem [illegible] [illegible] sacris ordinibus [illegible] [illegible] [illegible]

[illegible]

Cleo quos recte [illegible] quous [illegible] sacris ordinis de Canonico = tract. [illegible] SS. resolutas. Ut varie in eo explaranda [illegible] interpretes. [illegible] in praxi episcopale Verbo Canonici n° 3° a Verbo [illegible] n° 6 [illegible]. [illegible] intelligendum esse ante Concilium Tridentinum, quod [illegible] cum ex [illegible] testimonio [illegible]. [illegible] ipse [illegible] docet [illegible] [illegible] in Canonicatu cum sacer ordo [illegible] non erat. Sic q. nulla [illegible] habuisse [illegible] de sacro ordine [illegible] etiam [illegible] sieq. [illegible]. [illegible] [illegible] [illegible] adhibent solutionem quasi non [illegible] [illegible] [illegible] [illegible] [illegible] Bonifacius [illegible] n° 3. [illegible] [illegible] Zavarella in [illegible] clem. n° 5° Videat idea [illegible] mentionem facit [illegible] de sacro ordine [illegible] q. vocem habere debebat in Capitulo [illegible] temporis [illegible] tale requisitum non erat necessarium certum [illegible] est. ex [illegible] noviter statuisse Clemens in praesenti [illegible] animadvertit Clemens [illegible] [illegible] modo [illegible] papas statutum Iure Veteri ad Vers. eos q. deputati [illegible] officiis sacris ordinis [illegible] de [illegible] [illegible] qualitate [illegible] canon. [illegible] docent Archidiaconum et Ant. [illegible] Butrio [illegible] cap. [illegible] Canon. [illegible] adhuc [illegible] [illegible] eo [illegible] verbis [illegible] religiosos [illegible] q. reg. ex [illegible] [illegible] professi sunt vocem in Capitulo non habere [illegible] professi [illegible] [illegible] essent, etiam si sacris ordinibus initiati non essent. vocem in Capitulo haberent. [illegible] obstaculum [illegible] est [illegible] distinguendum est. inter religiosos et inter eos q. mancipati sunt. divinis officiis religiosi [illegible] [illegible] non [illegible] ratio est q. religiosi deputantur. contemplationi [illegible] in cap. [illegible] 12 q. 1. [illegible] certum est [illegible] etiam si sacris ordinibus initiati non essent vocem in Capitulo haberent [illegible] [illegible] [illegible] habet in [illegible] q. mancipati sunt divinis officiis ita me docuit eleganter sane Zavarella in praesenti n° 6.

[illegible] Decidendi [illegible] ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] eligerent Canonici [illegible] [illegible] [illegible] qui eligerent [illegible] [illegible] [illegible] a [illegible] [illegible] [illegible] [illegible]

Decidendi [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] divinis officiis [illegible] Canonici [illegible] si non habeant ordinem Subdiaconatus [illegible] in Capitulo admittunt. [illegible] [illegible] dignitatibus aut personatibus [illegible] intra annum [illegible] promoveantur vocem in Capitulo admittere. [illegible] [illegible] [illegible] [illegible] explicata in [illegible] aut [illegible] statim [illegible] [illegible] [illegible] obstante [illegible] [illegible] [illegible] quatenus asserit [illegible] amisisse [illegible] habentes Subdiaconatum [illegible] [illegible] ordines [illegible] [illegible] sacri ordines [illegible] [illegible] [illegible] [illegible] officiis [illegible] [illegible] = [illegible] [illegible] [illegible] Clemens [illegible] [illegible] dignitates [illegible] [illegible] [illegible] promoveri [illegible] duplici [illegible] amissionis vocis in Capitulo [illegible] [illegible] distributionum [illegible]. [illegible] [illegible] [illegible] dignitates [illegible] [illegible] [illegible] [illegible] impedimento [illegible] in Capitulo [illegible] [illegible] distributiones [illegible] [illegible] [illegible] Zabarella [illegible] Augustinus Barbosa de Canonicis et Dignitatibus [illegible] [illegible] [illegible] relatis =

[illegible] [illegible] [illegible] [illegible] [illegible] dignitas aut beneficium [illegible] [illegible] [illegible] [illegible] beneficium [illegible] [illegible] [illegible] vacans [illegible] [illegible] [illegible] vacans [illegible] sacris [illegible] [illegible] quo vacavit [illegible] [illegible] [illegible] tempus [illegible] debet. =

Qua [illegible] dubitandi ratio [illegible] Dni verissimam [illegible] Clementis [illegible] decisionem quatenus [illegible] habent
Dignitates [illegible] officia [illegible] promoveant [illegible] attendentes [illegible] S. Virginis [illegible]
[illegible] fructus [illegible] [illegible] [illegible]
qui possent accipere ordines [illegible] dignitatis, [illegible] diversas [illegible] et tanquam [illegible]
[illegible] punitis. [illegible] negligentia [illegible] Bonifacius [illegible] 31. [illegible]
[illegible] Nec tamen [illegible] dubitandi ratio [illegible] distinguendum [illegible] casum quo [illegible]
[illegible] beneficium scilicet [illegible] accepto ordines requirit, et [illegible] anno [illegible] [illegible]
Casum procedat decisio [illegible] (Dubitandi [illegible] beneficium erat [illegible] at [illegible] decisio [illegible]
[illegible] dignitates [illegible] accipiant [illegible]
[illegible] in [illegible]. [illegible] ratio [illegible] interpretatis [illegible]

[illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] immunitatis [illegible] [illegible] [illegible] [illegible] Doctrina [illegible] ex tempore [illegible]
[illegible] Clericos exemptos [illegible] [illegible] [illegible] in [illegible] cap. [illegible] de epis. et clericis Baronius anno Christi
[illegible] [illegible] [illegible] [illegible] [illegible] in perpetuum observari fecissent [illegible] [illegible] [illegible] diquerunt [illegible]
[illegible] Clericis tributa, pedagia, tallias collectas [illegible] imponentes. [illegible] Alexander 3.us in Concilio Lateranensi II. generali celebrato anno
[illegible] Christi 1179 [illegible] [illegible] de immunitate ecclesiarum examinando [illegible] [illegible] tributa [illegible] Clericis imponere [illegible] [illegible]
[illegible] [illegible] [illegible] protulit aqua non possent [illegible] [illegible] satisfactionem [illegible] [illegible] [illegible]
[illegible] excepto casu quo necessitas, vel utilitas communis adesset [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] laicorum non sufficiant dum tamen [illegible] consensu [illegible] cleri interveniat [illegible] [illegible] Episcopi et cleri [illegible]
et facultates laicorum non sufficiant pred.a excommunicatio [illegible] habebit ex illa vulgari iuris regula qua docemur quod
omnes tangit ab omnibus approbandum [illegible] cap. [illegible] omnes tangit [illegible] [illegible] Clem.a [illegible] [illegible] [illegible]
Archidiaconi [illegible] [illegible] [illegible] dum Innocentius III.us in Concilio Lateranensi IV Generali anno 1212 cuius
[illegible] [illegible] [illegible] [illegible] de immunitate ecclesiarum predicti Alexandri III. [illegible] [illegible]
[illegible] erat [illegible] utilitati, et necessitati [illegible] [illegible] intervenientique Episcopi et cleri auctoritate
[illegible] imponi pedagia [illegible] [illegible] [illegible] eadem excommunicationis pena ut hec onera imponi non valeant sum-
mo Pontifice inconsulto etiam necessitate communi adsit cui laicorum facultatis non sufficiant nisi [illegible] magna
adsit necessitas, que recursum ad Summum Pontificem sine periculo aut scandalo non admittat nam si gravis
adsit necessitas et ad eam obviandum summus Pontifex adiri non possit Episcopi simul cum clero possint consentire
ut [illegible] tributa solvant [illegible] ex utroque Lateranensi Concilio generali [illegible] sententiam ex-
communicationis impositam tantum esse adversus quoslibet exigentes tributa tallias et collectas personis
ecclesiasticis. Postmodum vero Bonifacius 8.us in cap. clericis 3.o de immunitate ecclesiarum ut [illegible]
[illegible] periculis obviaret cum videret [illegible] magistratus temporales dominos [illegible] [illegible] [illegible] [illegible]
contra Emperatores Reges Principes Duces Marchiones Comites alios similes personis ecclesiasticis
pedagia imponentes sententiam excommunicationis ipso facto incurrendam protulit verum etiam contra ipsos met
clericos solventes promittentes aut solvere consentientes pred.a pedagia excommunicationis assignavit quam
etiam adversus consilium adiutamentum prestantes [illegible] [illegible] ad [illegible] [illegible] ut quilibet privatus
excommunicatione ligetur universitas vero perpetuo interdicto supponatur ita ut quotiescumque vellent clerici
tributa solvere non possent nisi sedis Apostolicae auctoritate prius impetrata nec sine [illegible]
talis constitutio Bonifacii octavi prolata fuit generaliter cum exea [illegible] maxime ecclesie [illegible]
[illegible] clerici [illegible] diversis respectibus [illegible] ex voluntate [illegible] tributa et collectas [illegible]
[illegible] [illegible] [illegible] status clericalis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] adem
tamen [illegible] Bonifacii 8.i contra Regem Philippum Gallum qui omnia beneficia [illegible] Regno [illegible]
[illegible] providebat [illegible] [illegible] exeo nam huiusmodi constitutio adeo generalis fuit ut omnes Impera-
tores et simul Principes Reges que comprehenderet ut ex d. cap. clericis constat [illegible]
Bonifacii de [illegible] [illegible] n.o 17. Quod Bonifacii decretum Benedictus 11. in
extravaganti quod olim de immunitate ecclesiarum reformavit statuens hanc excommunicationis sententiam
locum tantummodo obtinere in clericis tributa solventibus et illa recipientibus ac sponte dantibus quarum
[illegible] multitudinis causa plurime [illegible] controversie inter Bonifacium 8.um et Benedictum
11.um quarum [illegible] [illegible] Clemens 5.us in Concilio Viennensi celebrato anno 1311 [illegible]
[illegible] in Conciliis generalibus Lateranensibus post omnium Pontificum statuta [illegible] [illegible]
generaliter statuens quoscumque laicos exigentes tallias et collectas ab ecclesiasticis personis excom-
municatos esse eademque pena [illegible] consilium auxilium et favorem ad id faciendum prestantes
[illegible] nisi Romanus Pontifex addeant semper ipso iure excommunicati sunt cui Concilio
Viennensis constitutio fulcitur et corroborata ex bulla Cene Domini canone 19 ubi [illegible]
que imposita [illegible] impedientes Conciliis Lateranensibus confirmant contra tributa secularia im-
ponentes clericis reservata sedis Apostolice eis absolutione adeo ut cuiuscumque conditionis
sive dignitatis seculares sint si absque predicta Romani Pontificis licentia collectas im-
ponant eiusdem excommunicationis mucrone ligentur illa vero [illegible] [illegible] Benedictus 11.us
in pred.a extravaganti quod olim approbaverat.

Quare cum Constitutio bulle Cene Domini
Concilia generalia sequentia de immunitate ecclesiastica innovasset et confirmasset, et
decretum Bonifacii 8.i in d. cap. clericis [illegible] in 6.o sublatum a Clemente 5.o in [illegible] Clementina
[illegible] Concilio a Concilio generali [illegible] solum a Pontifice ideo clerici tributa secularia solventes
excommunicatione non ligantur. Ut docent [illegible] et Ant. de Sosa quos refert et sequitur Bonacina
de censuris in bulla Cene Domini contentis disputat. 1.a quaest. 5.a § 3.o n.o 18 [illegible] [illegible]
adversari videtur Concilium Tridentinum sess. 25 de reformat. cap. 20 ubi non solum Concilia
generalia [illegible] favorem immunitatis ecclesiastice disponentia verum etiam omnes antiqui ecclesie

Canones et Decreta [illegible] [illegible] [illegible] constitutiones [illegible] [illegible]
generalia confirmavit ergo [illegible] [illegible] Bonifacii decretum [illegible]
confirmatum. nam respondendum est: omnes constitutiones de immunitate ecclesiastica sequentes [illegible]
tridentini approbari quae reprobatae non fuerunt. Unde cum Clemens [illegible] quintus Bonifacii
decretum abrogasset, dicendum est constitutionem clementis quinti [illegible] [illegible] XIII [illegible] [illegible]
tionis [illegible] 29. de privilegiis et per consequens [illegible] [illegible] excommunicat contra clericos [illegible]
ria tributa solventes locum non habere docet Bonacina [illegible]

[illegible] patet

Ex constitutione clementis observanda esse quatenus asserit excommunicatos tantum impositores [illegible] adversus [illegible]
gente collectas, pedagia et tributa a personis ecclesiasticis [illegible] adversus [illegible] clericos [illegible] [illegible]
ex qua constitutione illa solet deduci communis Conclusio: Seculares [illegible] seu pedagia [illegible]
sonis ecclesiasticis imponentes, auxilium et ausum praestantes ipso iure sunt excommunicati. Quae Conclusio probatur ex cap. 2° ex cap. et si clerici 4° cap. clerici 8° cap. cum ab [illegible] [illegible] cap.
13. cap. qualiter et quando de Iudiciis cap. 1° et 2° cap. si diligenti cap. significasti de foro competenti cap. [illegible]
de ordine cognitionis cap. Sacro § qui vero sunt [illegible] cap. causam 7° eodem titulo cap. nonnulli cap. adversus
[illegible] cap. sicut dixerant 12. de sententia excommunicationis in 6° cap. clericis eodem titulo eodem libro cap. quamvis
censibus eodem libro cap. ut inquisitionis 18. § prohibemus de hereticis eodem [illegible] Clem. 1a de censibus
Clem. 1a eodem titulo extravaganti 1a eodem titulo cap. nulli 2° cap. clericis 8° cap. [illegible] cap. 6° cap. [illegible]
8° cum aliis pluribus 11 q. 1a cap. futurum 15. 12 q. 1a cap. [illegible] 96 distinctione [illegible]
de sacrosanctis ecclesiis de iure Regis [illegible] 56. et 57. [illegible] partita 1a § 90. propter ordinariam
[illegible] Iuristae affirmant suis commentariis Suarez lib. 4° adversus Regem Angliae cap. 9° per totum
Anastasius Germonius lib. 8° de sacrorum immunitate cap. 15. ex n° 15. [illegible] [illegible]
de iurisdictione n°. 123. Cum in practicis quaestionibus cap. 33. Suarez lib. 1° § 3 Canonicarum cap.
n° 29. Sahagun in repetitione ad [illegible] in cap. 2° de Iudiciis. Et omnes Antiquiores [illegible]
[illegible] Moralium lib. 1° cap. 29. Curatus Barbosa et Balboa in cap. 2° de Iudiciis [illegible]
alios referens.

§. Haec constitutio illam patitur dubitandi rationem, scilicet Bonifacii octavi constitutionem [illegible]
[illegible] et in favorem status clericalis esse cum recipiat clericos non posse etiam [illegible] [illegible] [illegible]
cum certissimum sit tunc a iure dependentem esse constitutionem, cum [illegible] apparet ex Vulgari [illegible] [illegible]
augetur dubitandi ratio et videtur nec nobis nec Vetus ius Clementis V approbare posse ex cap. [illegible]
27. 11 q. 3a. illis verbis si tributum petit Imperator non negamus. agri ecclesiae solvunt [illegible]
si agros desiderat. Imperator potestatem habet vindicandorum ex quibus verbis aperte colligitur [illegible]
[illegible] posse personis ecclesiasticis tributa imponere [illegible] aliqua [illegible] [illegible]
quintus sui Veteris antiquum ius confirmare non potuit cum eodem iure statutum sit [illegible]
[illegible] tributa imponere personis ecclesiasticis = quadam [illegible] [illegible] non obstante verissima [illegible]
[illegible] clementis 5. [illegible] [illegible] explicat [illegible] [illegible] possent proponere [illegible] ratio [illegible]
[illegible] consistit [illegible] ideo in praesenti statutum esse a Clemente 8° sententiam excommunicat[illegible]
tum modo adversus laicos pedagia imponentes non vero adversus clericos solventes. Nam [illegible]
Bonifacii 8ui valde [illegible] Regi Franciae [illegible] esset, quem ipse Clemens quintus [illegible]
[illegible] propter vitanda gravia scandala pericula et incommoda quae inde [illegible] [illegible]
animam [illegible] edidit qua constituit solum adversus laicos excommunicat[illegible] locum habere
ut placeret Regi cuius [illegible] alias [illegible] plurimas constitutiones ipse derogavit quas refert Card[illegible]
Zabarella in praesenti n°. 1° quae ratio decidendi probatur ex verbis [illegible] Clement. ibi propter
vitanda scandala. docet Bonifacius [illegible] in praesenti n° 4° qui etiam [illegible]
hoc statuisse Clementem exeo quod sibi videretur sufficere excommunicat[illegible] impositores
adversus laicos exigentes tributa cum praesumere debeamus clementem suas res [illegible] [illegible]
[illegible] [illegible] [illegible] cum de [illegible] ff. de condictione [illegible] = accedit iure [illegible]
et iure immunitati [illegible] [illegible] ratio quia exemptio ecclesiastica [illegible] [illegible]

Augendubitandi ratio [illegible] consideratio [illegible] [illegible] [illegible] [illegible] [illegible] a. adriano [illegible] [illegible] 23. 63. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] multo [illegible] [illegible] [illegible] excommunicato [illegible] [illegible] [illegible] [illegible] [illegible]

Vide Barbosa in cap. 2. de Iudiciis n° 99. et 100 et 101 et 102

aberq. [illegible] [illegible] origine qua [illegible] in [illegible] Romana [illegible] residet ita aberd[illegible] cum legiis ecclesiis prelatis. tamq. in [illegible] privatis, cap. cum [illegible] 7.° 19. distinct.ª Gonçalez ad regulam 8.ª Cancellariæ in proemio § 1.° n.° 2.° Unde. cum sacerdotes in sacra scriptura [illegible] [illegible], Angeli, et Magistri appellentur. exodi cap. 22. cap. si [illegible] 96 distinct.ª merito. clemens [illegible] [illegible] sus. agrouant [illegible] excommunicationis adversus exigentes tales. collectas a clericis [illegible] possunt pre seculari habens. Gentilicam Consuetudinem [illegible] quæ personas [illegible] dicatas ab omni tributorum genere eximebant et consacratis Magistratibus tantummodo deserviebant ut refert [illegible] Alex. Lib. 4.° ab Alex. andrea [illegible] in [illegible] de Vita. et Vestalibus cap. 18. Unde iam de vitandi ratio

Non [illegible] deducta ex d. cap. si tributum 11 q. 1.ª nam discrimen constituendum est inter tributa sive realia quæ respectu ipsius rei non vero attenta qualitate personæ imponuntur. pretio certo et invariabili assignato qualia sunt ex pacto [illegible] [illegible] [illegible] aut [illegible] [illegible] proveniunt. et inter illa quæ rei [illegible] [illegible] habito respectu [illegible] imponuntur. 1.° casu. tributa tamq. rei imposita ad clericum transeunt cum [illegible] persona ipsa res [illegible]. 2.° vero cum ipsa persona pre seculis habeat res. cum pre dictione ad clericum non transit quam [illegible] [illegible] Diana [illegible] tractatus resolut. [illegible] [illegible] alii [illegible] relati. Unde dicendum est. [illegible] ind. cap. si tributum loqui de tributis mere realibus ipsis rebus impositis assignato certo pretio et invariabili. per quod cognoscitur non esse [illegible] habito respectu ad personam. [illegible] [illegible] [illegible], hoc in casu dicendum est imponentes hoc tributa excommunicationem non incurrisse docent ita [illegible] in cap. ecclesiæ Sanctæ M.æ de constitutionibus n.° 4. [illegible] [illegible] n.° 9. [illegible] Mala loco citato n.° 28. Quasi solet intelligendus [illegible] in cap. magnum 11 q. 1.ª et in cap. tributum 23 q. 8.ª [illegible] in cap. nuper de decimis [illegible] in cap. 2.° eod. tit. in 6.°

ex quo attendendi ratione [illegible] Interpreta [illegible] 1.ª divi Petri cap. 2.° et epistolam divi Pauli ad Romanos cap. 13. ex quibus authoritatibus. provatur. seculares Principes personis ecclesiasticis tributa imponere recte posse absque eo. q.d sententiam excommunicationis incurrant. quam difficultatem ut effugerent. scribentes [illegible] dixerunt [illegible] dicendum est. predictas authoritates tempore primitivæ ecclesiæ procedere qui Imperatores [illegible] iurisdictionem ecclesiasticam. usurpatam de facto habebant. Pontifices q. perse [illegible]. quorum persecutiones multoties [illegible] [illegible] [illegible] [illegible] [illegible], et in arborum concavis se abscondebant. ubi ecclesiam gubernabant. decreta et constitutiones condebant. qua de causa ad vitanda maiora mala [illegible] fidei et Catholicæ Religionis detrimentum [illegible] asseruerunt Pontifices personas ecclesiasticas teneri [illegible] prestare. Principibus. secularibus non de iure. s.d de facto. ut tenent Archidiaconus. Bellamera. et Turrecremata in d. cap. Magnum 11 q. 1.ª et ibidem Dominicus. et [illegible] n.° 9.° Sahagun. Azor et Bonacina locis supra citatis — Quasi solet intelligendus [illegible] [illegible] [illegible] dicit non haberes potestatem adversus me ullam [illegible] cap. 19. divi Ioannis ubi [illegible] [illegible] non iuris quam si nisi tibi datum esset desuper. quæ verba sic accipienda de potestate facti non iuris quam si Pilato non esset. [illegible] permissum etiam [illegible] [illegible] cognoscere [illegible] [illegible] non posset. de qua potestate etiam interpretandum est [illegible] in cap. 22. divi Lucæ ubi [illegible] [illegible] posuit verba hæc est hora vestra et potestas. tenebrarum ita docent Azor Bonacina et Suarez locis supra citatis. Cuius in [illegible] interpretatio ad [illegible] in cap. fin. de vita. et honestate clericorum ubi [illegible] [illegible] clericos [illegible] consuetudinis patriæ teneri. tributa solvere. ergo. non recte imposita [illegible] [illegible]

pronuntiatur clericos [illegible] excommunicatio adversus ea imponentes. cuius difficultatis dicendum [illegible] dicendum est. clericos negotiatores dum se immiscent. secularibus negotiis ad solutionem tributorum teneri. ut [illegible] Bonifacius 8.us [illegible] ex cap. 4 quamquam de censibus. Lib. 6.° ubi. etsi simpliciter et absolute [illegible] asserat. clericum negotiatorem ad solutionem gabellarum teneri. [illegible] intelligendus [illegible]. dum tamen [illegible] monitio intervenerit et in hoc casu loquitur. [illegible] ind. cap. fin. [illegible]. hoc enim sæpe [illegible] accidit ut [illegible] decretum per decisionem [illegible] ind. cap. fin. [illegible] [illegible] cum cap. 1.° de [illegible] cap. cum [illegible] [illegible] constat ex cap. si qua Mulier 3 q. 1.ª [illegible] [illegible] de [illegible] cum cap. [illegible] sententia excommunicationis. ita docent Bonacina loc. citato Azor [illegible] [illegible] Moralium Lib. 5.° cap. 19. Diana ubi supra cum pluribus relatis

Cui distinctione omnimodo [illegible] [illegible] in cap. 2° de immunitate ecclesiarum, ex quo [illegible] tempore belli clericos teneri vigilare muros, civitatis custodire quod [illegible] munus personale [illegible] § personalia [illegible] de muneribus, et honoribus, quod clerici non solum [illegible] realia [illegible] etiam personalia solvere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] Interpretes varios intellectus retulit Panormitanus in cap. non minus de immunitate ecclesiarum n° 18 [illegible] distinguunt inter personalia [illegible] et inter ea quae ministeriis ecclesiae inserviunt 1° casu dicunt nec tempore belli posse [illegible] vigilare civitatis, aut eius [illegible] custodire. 2° vero affirmant teneri. [illegible] in [illegible] casu intelligendum esse [illegible] unde [illegible] [illegible] tinguunt [illegible] haec interpretatio esse [illegible] [illegible] [illegible] esset [illegible] ille dubitanda [illegible] [illegible] quia omissa hac sententia dicendum est [illegible] cap. procedere specialiter [illegible] belli [illegible] [illegible] offensione quo casu cum unusquisque suam patriam defendere teneatur, cum [illegible] [illegible] sibi nascatur [illegible] § generaliter de de ventre [illegible] intendo ideo asseritur tempore belli clericos vigilare civitatis atque muros custodire teneri: et Thomas Sanchez tomo 1° Consil. libro 2° cap. 3° dubio 5 n° 13.

Verum interpretem textus in lege ad instructiones C. de sacrosanctis ecclesiis ubi Imperatores Honorius, et Theodosius asserunt recte exigi posse a secularibus tributa clericis ad reparationem itinerum et pontium [illegible] [illegible] incurrant in excommunicationem ergo [illegible] [illegible] [illegible] bene penam [illegible] [illegible] pro [illegible] textus intelligentia asserendum est clericos non teneri, propter publicam necessitatem solvere tributa quae imponantur itinerum pontium et murorum a secularibus imponuntur, nisi concessa sint de licentia summi Pontificis, aut Episcopi [illegible] Cleri in casu quo tanta fuerit subita necessitas ut ad Pontificem commode adiri [illegible] [illegible] ratio est quia adversatur predictis decisionibus et bullae Coenae Domini ut clerici [illegible] licentia Pontificis tributa secularia solvant. Cum etiam nam lex generalis aut [illegible] a laicis imposita ad ecclesiasticas personas [illegible] earum bona non extenditur, sive praeiudicium [illegible] commodum et favorem eorum concernat [illegible] ecclesiae Sancti [illegible] de constitutionibus [illegible] dicendum est textus in dicta lege ad instructiones ob praedictas rationes abrogatum esse [illegible] [illegible] potestatis nullius esse momenti ita docent Panormitanus in dicto cap. non minus n° 18. [illegible] [illegible] cap. 2 n° 27. [illegible] [illegible] Diana [illegible] supra citatis quo sic [illegible] intelligendum [illegible] textus in lege 1ª C. de indictionibus libro [illegible] textus in lege fin. C. de exactoribus tributorum eodem libro. textus in lege de his C. de episcopis et clericis.

Rursus interpretes caput 17 [illegible] [illegible] Matthei ubi Christus cum ab eo exigeretur ut tributum solveret Augusto Imperatori, [illegible] interrogavit reges terrae a quibus tributum accipiunt a filiis suis an ab alienis, et cum Petrus respondisset ab alienis intulit Christus ergo liberi sunt filii, [illegible] [illegible] [illegible] ne scandalizemus eos. Vade ad mare et invenies piscem ex quo [illegible] deducere [illegible] quae [illegible] [illegible] facies ex qua responsione Christi colligitur clericos teneri [illegible] ergo praeceptis obedientes [illegible] [illegible] solvere secularibus. Cui difficultati respondendum est dicendo Christum non [illegible] tributum quod ad illud solvendum erat obstrictus, sed ob vitandum scandalum passivum quod oriri poterat ex ignorantia illorum qui simpliciter illud patiuntur scandalum, at non si scandalum ex malitia procederet tunc vitandum non est. Ut ex cap. 15 Matthei constat ubi [illegible] illos [illegible] [illegible] et duces caecorum [illegible] interpretatur tradit Thomas Sanchez loco superius citato

Rursus in [illegible] interpretatione [illegible] [illegible] [illegible] de [illegible] [illegible]
[illegible] [illegible] [illegible] filios duos ex matrimonio habebant, quorum alter Canonicus [illegible] erat, ex quo [illegible] [illegible] [illegible] habere [illegible] mater dixerunt cui [illegible] filii succedere debebant. Quo facto [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] venditio valeret filius emancipavit, et [illegible] venditioni [illegible] [illegible] fecit. [illegible] [illegible] [illegible] illa observaret [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] alieni extraneo [illegible] sanguinis suo, ille qui [illegible] [illegible] usque ad annum, et diem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cognovisset Guillelmus [illegible] Canonici, frater ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] patri, ut ex [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Bonifacius asserit Petrum [illegible] [illegible] casu [illegible] in quo [illegible] [illegible] [illegible] [illegible]

In dicto cap. Magnus [illegible] [illegible]

[illegible] Matthei [illegible] [illegible] [illegible] [illegible] cap. [illegible] 8. 289. 1

les [illegible] cingebat, anullassent, q[uo]d [illegible] petere in gerione materna, Verum ex duratena, cum sarati essent [illegible] restituere. Cui [illegible] Legati [illegible] Rex, q[uo]d si ita non ee convenerint, faciant omodo [illegible] dictis fratribus aut virtute municipij aut restitutio [illegible] auxilio impetrato. Ex Cuius [illegible] colligitur Clericus municipij legibus obstrictus ee, igr et erunt obstricti [illegible] gabellarum si impositae sunt, nec eorum [illegible] legibus [illegible] tallias imponentes. Verum huic difficultati [illegible] e dicendo Clericos [illegible] Obligari [illegible] Civitati, q[uo]a quatenus [illegible] sunt [illegible] a lege politica, [illegible] et [illegible] Molina de just[iti]a et iure tract. 2. disp. 3. n. 6. [illegible] qui [illegible] arg[umento] [illegible] falsa [illegible] §. [illegible] ff. de conditionibus, et demonstrationibus. [illegible] debere [illegible] jurisprudentia [illegible] statutum [illegible] Clericorum, [illegible] Manquesiht. Quod [illegible] intelligendum [illegible] Denissent. 3. [illegible] mittere [illegible] vbi [illegible] clerici obstricti. [illegible] esset tam Clerici quam laici, [illegible] Molina d. tract. [illegible]

[illegible] illud [illegible] digno [illegible] ubi [illegible] Constantinus Imperator [illegible] Nicenus Generale, quod Celebratum fuit [illegible] Nicea Provincia Bitiniae anno Xpi 325. [illegible] Clericum [illegible] deferendus [illegible] ne judicium [illegible] ab Dei solius [illegible] Cuius [illegible] Cumque Decreta [illegible] solent [illegible] illud dubium exagitare [illegible] Clerici [illegible] super quibusdam 26 de [illegible] vbi [illegible] [illegible] galeagia, [illegible] et Salineria [illegible] nisi sunt Imperatores, [illegible] Reges, [illegible] Concilij aut [illegible], et ex antiqua [illegible] tempore, Cuius extat memoria [illegible]. Ex quo [illegible] aperte colligitur Imperatores, et Reges [illegible] imponere posse personis eccles[iasti]cis [illegible] sententiae [illegible] excommunicationis incurrant. [illegible] vbi [illegible] illud [illegible] Regum de quo [illegible] quibusdam intelligendum [illegible] Reg[illegible], [illegible] ipse [illegible] personis ecclesiasticis. [illegible] secularibus

Sdi[illegible] Notandum immunitatem ecclesiasticam et clericorum exemptionem a iure divino [illegible] venire [illegible] Regulam hanc ex Balboa in Cap. 2 de Judicys n.° 11 et 18 usque ad n. 21 qui quidem [illegible] [illegible] divini [illegible] fuisset quod absurdum est afirmare posset tamen Pontifex illam [illegible] et Principibus secularibus [illegible] ut eam observarent Vide Balboam n.° 34 et segq. in d. Cap. 2 de Judicys et [illegible] n.° 36.

2.° N[ota]. [illegible] n.° 38 usque ad n.um 40

3.° N[ota]. ex eodem Balboa a n.° 103 usque ad N.um 109

Sed primo notandum quod exemptionem Clericorum, eorumque Spiritualium a jurisdictione seculari a jure divino provenire certum est, et omnino tenendum, ut [illegible] probant [illegible] dicta [illegible] tex. in capitulari, Cap. [illegible] 11 ques. 1a. ap. [illegible] 12 ques. 1a. Capitu[illegible] de jure jurando, cap. quam [illegible] de sententia [illegible] 6o. Concilium Lateranense sub Leone 10o. [illegible] in Bulla [illegible] Concilium Tridentinum sess. 25 de reformatione cap. 20, et [illegible] Concilium Coloniense [illegible] 1o. cap. 20. [illegible], hanc immunitatem [illegible] jure pariter divino et humano introductam, imo et [illegible], ut inter [illegible] [illegible] nec [illegible] [illegible] Baronius [illegible] exemplis probat, qui possessio [illegible] noluit esse tributariis [illegible] Genesis 47, [illegible] de [illegible] 1o. [illegible] 7, quod [illegible] Papa epistola 2a. ad [illegible] posito, illud Zachariae, qui tangit vos tangit pupillam oculi mei, et illud [illegible] 104, nolite tangere Christos meos, quo evidenter colligitur [illegible] supradictorum jurium auctoritate, et hac apud gentiles Religiosa observatione Clericos exemptos esse a jurisdictione seculari jure divino naturali, [illegible] sententia sequuntur, Covarrubias in practicis cap. 31 Bellarminus lib. 1o. de Clericis cap. 28 [illegible] 5a. et cap. 29, et lib. 1o. de Pontifice cap. 29, innumeros refert, et sequitur eximius Pater Franciscus Suarez lib. 4o. contra Regem Angliae cap. 8o. [illegible] 9o. [illegible] =

Quae quidem exemptio, et immunitas, licet a Christo Domino [illegible] recte tamen potuit a Summis Pontificibus [illegible], et [illegible] observanti [illegible] Principibus secularibus praecipere, ut expresse probat Innocentius in cap. 2o. de majoritate et obedientia. Communis est Doctorum sententia in cap. ecclesia S. Mariae de constitutionibus, et expresse docent Alvarus Pelagius de planctu Ecclesiae lib. 1 q. 44 Covarrubias in practicis c. 31 Conclus. 3 et 4 [illegible] satis probatur ex supradictis decisionibus = Sine [illegible] [illegible] duxi refutare [illegible] errorem dicentium hoc privilegium clericis indultum fuisse a Justiniano nec ante eius tempus [illegible] exemptionem clericis fuisse concessam, convincitur enim ex Constantini facto in lg. 1 cod. de episcopis et clericis, et in lg. 7 eod. tit. lg. 8. tit. 16 Cod. Theodosiano docet Baronius anno Christi 330 et de Valentiniano testatur Ambrosius [illegible] epistola 3 de Honorio manifestum est in lg. 41 de Episcopis et clericis de aliisque Imperatoribus ante Justinianum plura refert et cumulat Cardinalis Baronius anno Christi 455 et 452 et ex sententia Concilii Aquileiensis et Matisconensis docet Augustinus epistola 53 ad Macedonium =

Secundo praeliminandum est quo-

[illegible] hoc privilegium fuerit [illegible] ad tollendam ambiguitatem [illegible] tempore

distinguenda sunt. Sunt a principio nascentis Ecclesiae usque ad Constantinum quo Principes infideles erant. Sunt a Constantino usque ad Fredericum secundum. Sunt a Frederico 2° usque ad nostra tempora. De hoc ultimo nulla est dubitatio cum certum sit Ecclesiae privilegium esse confirmatum ab usu Principum catholicorum contradictione [illegible] de prioribus vero temporibus distinguendum est, nam loquimur vel de iure, vel de facto, et vel de iure divino, vel de iure ecclesiastico, vel de iure civili. Semper enim privilegia [illegible] uti privilegio [illegible] quo [illegible] de primo [illegible] tempore dicendum est clericos eo tempore [illegible] actione seculari de facto subiectos fuisse Principibus de facto et de iure [illegible] subtraxit ecclesia ad vitandum maiora mala non obstante [illegible] Utebatur autem illo tempore Ecclesia eo privilegio quoties et quomodo poterat saltim inter ipsos fideles ad hoc semper enim habuit potestatem a Christo adeo ut Appostolorum tempore privilegium hoc in usu fuisse auctoritas Pauli 1 ad Timotheum cap 5 satis probat.

De secundo vero tempore constat a [illegible] Imperatorum christianorum clericos exemptos fuisse iure proprio et de facto observato [illegible] per Bizantinos impediebant [illegible] qui namque consumationis [illegible] noluerunt [illegible] Imperatorum infidelium tempore illud prefecere non tentaverunt, fatemur etiam [illegible] illorum temporum multa facta fuisse ab Imperatoribus et Magistratibus contra Ecclesiae immunitatem et clericorum exemptionem non tamen sequitur ea facta valida aut licita fuisse ut expresse docet Concilium Carthaginense 3 cap 38 relatum a Gratiano in cap. petimus 11 q. 1 et Concilium Milevitanum cap 19 relatum in cap. placuit 11 q. 1.

Ultimo notandum est bona clericorum et ecclesiae exempta esse ab omni onere tributorum quae ex vi Regiae iurisdictionis sunt imposita ~~antequam~~ etiam si talia bona antequam ad Ecclesiam pervenirent essent illi tributo subiecta. Si vero bona temporalia antequam Ecclesiae fierent onus reale annexum habebant et pensionem alteri solvendam ex vi dominii et pacti praecedentis etiam si postea fiant ecclesiastica eidem oneri remanent obnoxia nec privilegium exemptionis ecclesiarum ab illo onere liberat. Communis Doctorum sententia quam sequuntur Bartholus in lege de his cod. de episcopis et clericis, Panormitanus in cap. 1 de censibus n° 6 et in cap. fin. de vita et honestate clericorum n° 12 docet Gregorius in lege 5 tit. 6 part. 1 glosa 4

[illegible] ad textum in Clem. dudum prim. [illegible] de judiciis [illegible]

[illegible] cap. [illegible] Clem. [illegible] titulus de judiciis in principio [illegible] caput [illegible] elegantia [illegible] Clem. dudum [illegible] de judiciis [illegible] animadvertam [illegible] [illegible] decimum [illegible] generale [illegible] anno domini 1274. [illegible] Lugduni [illegible] anno 1274. celebratum [illegible] Vienense decimum quintum generale [illegible] Franc. [illegible] Clem. [illegible] [illegible] concilio [illegible] cap. 17. [illegible] Carolus docet Andreas Valensis [illegible] ad [illegible] de conciliis, vec. [illegible] cap. 5. [illegible] § [illegible]

n° 2. In limine antequam procedamus [illegible] non inopportunis dubiis [illegible] cur [illegible] Clem. sub titulo de [illegible] sub titulo de judiciis [illegible] de [illegible] quoniam [illegible] [illegible] sub titulo de judiciis posita [illegible] [illegible] num. 10. et [illegible]

n° 3. [illegible] Bonifacii [illegible] ex anno 1294 usque ad annum 1303 [illegible] extravagantem [illegible] citationes [illegible] solemnes [illegible] Bonifacio [illegible] citationes extra [illegible] solemnes [illegible] cardinalis Zabarella [illegible] cap. 1. 2. 5. et 6. [illegible]

n° 4. Verum licet [illegible] verissima sit [illegible] [illegible] num. 22. [illegible] 49 [illegible] 79 [illegible] citatio [illegible] 44. [illegible]

[illegible] cap. [illegible] 16. [illegible] 6. [illegible] de appellat. [illegible]
citat. general. [illegible] admittens tanquam [illegible] ad [illegible]

n.° 5. [illegible] urget, etiam si contra [illegible]
[illegible] sententiam [illegible] et [illegible] nullius momenti cap. 1. [illegible]
[illegible] defensio [illegible] de [illegible]
[illegible] C. unde vi. [illegible]
[illegible] nulla [illegible]
[illegible] de damno infecto [illegible]
[illegible]

[illegible] cum [illegible] valere debeat [illegible]
cap. [illegible] nullius [illegible] adhuc valere debeat [illegible]
[illegible] extra [illegible] litteras [illegible] ad iudicium trahi posset [illegible]
de [illegible] ita tamen, ad iudicium [illegible] vel [illegible] fautores aut consiliarii [illegible] ultra duas dietas
[illegible] trahantur; [illegible] citati [illegible] temporis
quibus [illegible] quantum [illegible] remota.

n.° 7. Quibus [illegible] citationum [illegible] nec [illegible] facie [illegible]
Veritas [illegible] valde [illegible] necessaria [illegible]
Variis [illegible] citationes, de quibus [illegible] significare vocationes [illegible]
Solum apud [illegible] 11. de probationibus, sed apud bonarum litterarum auctores, ut [illegible]
[illegible] 28. Citationum [illegible] species, Litteralis [illegible] Verbalis, Legalis, et edictalis
[illegible] Imola [illegible] 9. Jabarrian [illegible] 10. Bonifacius de Vitalinis n.° 61. Citatio litteralis [illegible]
[illegible] C. [illegible] iudex [illegible] verbalis [illegible] cap.
19. [illegible] citatio [illegible]
ut [illegible] cap. 1. cap. [illegible] cap. [illegible] cap. quamvis de [illegible]
[illegible] vocantur [illegible] edictum [illegible] §. [illegible]
[illegible] Quibus citationum speciebus alias adiungunt Imola [illegible] n.° 9. Accursius in l. [illegible] C. quomodo [illegible]
[illegible] vocant [illegible] quia fit [illegible] citando personam, et capiendo illum, [illegible] ad iudicium. [illegible]
citatio, et vocatio [illegible] debet, ut notant [illegible] Venitaneus, [illegible] citationum species.

n.° 8. Rursus [illegible] citationum species reduci [illegible] ad citationes publicas, et privatas
privatas [illegible] sermo [illegible] que [illegible] citatio edictalis
[illegible] ut constare [illegible] et tradunt Rota decis. [illegible] 8. de dolo [illegible]
stilo [illegible] cap. 3. [illegible] observationum observat. 57. n.° 2. Iudex [illegible] debet ab edictali citatione incipere, [illegible]
in persona, vel ad domum [illegible] debet fieri citationis executio, cap. [illegible] 8. de dolo, et [illegible]
[illegible] de damno infecto, Scacia [illegible] de iudiciis [illegible] 34. n.° [illegible] Maranta de ord. iudiciorum [illegible] n.° 82. [illegible] gravare
citatus, et posset iudex appellationis hoc gravamen restaurare [illegible] Gregorius de appellationibus Lib. 2. cap. 15. n.° 10.
citatio [illegible] circumstantiis, et requisitis, de quibus [illegible]
ut decreuit decisio Rotae 753. incipit, [illegible] de nullitatibus [illegible] citationis

n.° 9. Amplius [illegible] litem [illegible]
[illegible] per edicta [illegible] de quo in l. [illegible] 7. [illegible] de [illegible] iudiciis, auth. [illegible]
tradunt [illegible] n.° 3. Imola n.° 6. [illegible] tabula dealbata velut
Scribit [illegible] de actionibus [illegible] litteris notatis [illegible]
notatum est, proponebant, l. 2. §. [illegible] de [illegible] familia [illegible] l. 1. C. de [illegible]
[illegible] de actionibus. [illegible] expectat decis. [illegible] quae [illegible] l. 1. §. 1. [illegible]
[illegible] quo [illegible] quia [illegible] adversarius [illegible] ad album [illegible] dictaturus, vel [illegible]
[illegible] scribitur ad album, [illegible] ut [illegible] Paconius [illegible]
n.° 10. [illegible] dictaturus [illegible] ad album [illegible] dictaturus

[illegible]

[illegible] ... putant [illegible] in hac citat[ione] [illegible] facienda necess[ari]o [illegible] assignari [illegible] et sufficiens [illegible] ... [illegible] post lapsum terminum, qui ordinata [illegible] locorum citationi [illegible] ... Gailly [illegible] observat. obs. [illegible] 57. n. 21. ... notant [illegible] nota [illegible] ... de libello, contumacia [illegible] in casibus [illegible] ... opinantur [illegible] ... aperte [illegible] nullius [illegible] terminus [illegible] et peremptorius [illegible] tenet, Videndus Caballos [illegible] ... pract. q. [illegible] Latius [illegible] de citatione [illegible] 27. n. 9.

n. 11. Denique notandus ad Validitatem citationis [illegible], quae [illegible] proponitur, [illegible] q[uod] fuit ab ipso Pontifice, vel [illegible] speciali mandato, ut aperte ostendunt [illegible] ... Roma[ni] Pontificis processus [illegible] facere generales ipso Papa specialiter, et ex certa scientia [illegible] mandante [illegible] ... specialiter [illegible] ... que expedi[illegible] ... [illegible] immo nec [illegible] ... Pontificis datos [illegible] facult[atem] citand[i], nisi specialiter illis facultas citandi [illegible] ... posse [illegible] citare; dummodo [illegible] ... in loco ubi [illegible] ... habitare, et [illegible] citandum [illegible], ut [illegible] in Clem[entina] [illegible] Romana Curia, nec [illegible] Pontificio Apostolico, ut docet [illegible] ... Maranta [illegible] n. 4. [illegible] ... [illegible] Criminalibus q[uod] procedatur contra absentem [illegible] citatur delinquens [illegible] ... de [illegible] lex [illegible] tit. 10. lib. 4 recopilationis, [illegible] explicat [illegible] Antonius Gomez [illegible] 70. [illegible] ... Capitulo [illegible] cap. 15. [illegible] ... Perez [illegible] lib. 1. tit. 2. [illegible] 2. q. 23. [illegible] ... [illegible] requisita [illegible] citatio [illegible] facta [illegible] ... facile colligitur, et ex [illegible]

n. 12. [illegible] venit [illegible] de [illegible] quare [illegible] ... citat[ione] [illegible] publice de mandato Pontificis factas obligare citatum [illegible] quo [illegible] citet ... vel [illegible] cognitio [illegible] ... Bonifacius [illegible] potuerit [illegible] tam novam et exorbitantem in citando formam. [illegible] ... quaerendo [illegible] quia [illegible] rationabiliter editis [illegible] ... [illegible] nullis minus rigorosa videtur, ex quibus aperte colligitur illius temporis malitiam [illegible] ... Bonifacii Octavi ita docente [illegible] Bonifacio [illegible] n. 37. [illegible] fuerit illa malitia temporis facile noverit, qui [illegible] Bonifacii Octavi [illegible] ... Bonifacio Octavo [illegible] gubernante Philippus pulcher Galliae Rex [illegible] ... Romanis [illegible] Bonifacius [illegible] ... Pontifex [illegible] cum Philippo pulcro [illegible] ... Pontifex Bonifacio Octavo [illegible] ... [illegible]

[illegible]

[illegible] a Bonifacio Octavo [illegible] [illegible], vel procurant [illegible], respondit ad [illegible] domicilio [illegible] vel libere adiri [illegible] generalis sufficere et citatio [illegible] habere [illegible] et accessibilis [illegible] procuratoris habens [illegible]

Vere [illegible] citatio [illegible] potuit verosimiliter ignorare, [illegible] credere [illegible] arg. [illegible] l. 1. §. [illegible] ff. de [illegible] per [illegible] l. [illegible] ff. de [illegible] Tabarella in [illegible] n° 28. [illegible]

n° 14.

Nec [illegible] Clementina [illegible] Cossutius [illegible] ne ad se citatio perveniret per edictum [illegible] [illegible] in cap. quoniam [illegible] §. [illegible] in contestatione [illegible] Farinacius 1° tomo [illegible] n° 32. [illegible] citatus per [illegible] l. 2. [illegible] ff. [illegible] ad [illegible] tenetur [illegible] [illegible] cap. [illegible] procuratoris [illegible] l. 1. [illegible] l. [illegible] §. gessisse ff. de administrat. tutor. [illegible] Bonifacius de Vitalinis [illegible] n° 26. [illegible] domesticis [illegible] attestationibus, [illegible] n° 4. Bartolus in l. [illegible] ff. [illegible] nempe quod domicilium citandi [illegible] adiri [illegible] citatio edictalis sufficiat, [illegible] quemadmodum [illegible] debet ad [illegible] tenere, et aliter comparere tenetur [illegible] appellat. [illegible] debebat iudici et [illegible] ut tute possint ad [illegible] accedere, [illegible] valeat citari reus [illegible] potentia adversarii, [illegible] ci, [illegible] regulam legis [illegible] Clementina [illegible] in cap. [illegible] de off. delegati [illegible] Clem. unica de foro competenti, [illegible] aliis [illegible] 1. observationum observat. [illegible] n° 1.

n° 15.

[illegible] adductis [illegible] Nam [illegible] generalis citationis [illegible] sufficere [illegible] gravari [illegible] debet, et [illegible] particularis [illegible] [illegible] adest vel [illegible], vel [illegible] debeat [illegible] gravari [illegible] [illegible] limitat [illegible] adest [illegible] culpa [illegible] cap. unico de schismaticis cap. ad abolendam de haereticis [illegible]. Quare [illegible] citandi tute adiri nequit [illegible] citari [illegible] ad [illegible] locum [illegible] citatur comparere tenetur [illegible] appellat. Citatio generalis valet, [illegible] citatus. Necessarium [illegible] probari [illegible] necessarium [illegible], tamen [illegible] necessitas [illegible] faciendam [illegible], [illegible] tempore [illegible] sufficiebat generalis citatio, quam generalitas restringit [illegible] n° 53 [illegible] [illegible], [illegible] Bonifacius de [illegible] de Vitalinis [illegible] n° 45. et 54. [illegible] Tabarella [illegible] n° 10.

n° 16.

Nec [illegible] qua dicebam generalis citatio [illegible] [illegible] habeatur [illegible] defensam partis [illegible] in loco domicilii [illegible] citari debebant [illegible] citandus [illegible] ne adhuc possint citandi pervenire [illegible] [illegible] cap. [illegible] n° 43 [illegible] adire [illegible]

Nec

[illegible]

... in peragendo principaliter agentis [illegible] ... quem privilegiatum [illegible] l. 18. tit. 7. lib. 1. recop. [illegible] ... dies Octo [illegible] dinumerantur, et in hac [illegible] l. 6. tit. 22. ... l. 6. tit. 9. ... ut notat Ioannes Pantadorius lib. 2. var. [illegible] cap. 18. n.° 12. Cum proposita [illegible] difficultati de- ... cendo quod licet judices [illegible] ultra duas dietas [illegible] non possint [illegible] exercere, Pontifex [illegible] ... tius, pot. cap. proposuit [illegible] ultra duas dietas [illegible], ut edicto ab loco [illegible] absentes liget ... Covarrubias [illegible] cap. [illegible] ... nantur de judicibus [illegible] ibidem ultra duas dietas ... dict. Quam exercere [illegible] valere, at [illegible] noster loquitur de edicto prolato a Pontifice, qui [illegible] ... ut citatio absentem ultra duas dietas liget, quod ad illos impeditur, ne ad eius notitiam citatio perveniat vel ... domicilii [illegible], ita docet Immolatus [illegible] =

n.° 18.

Ex quibus [illegible] deducitur explanare an ... citatus, de quo [illegible] personaliter, ut [illegible] talis citatio edictalis ad notitiam citati pervenisse, ex quo ille resultavit effectus quod [illegible] ... mittatur, cap. [illegible] ... ante exceptiones [illegible] duplex [illegible] altera affirmativa, altera negativa, Affirmativa [illegible] citatus ... citato personaliter [illegible], ita ut [illegible] talis citatus ad notitiam citati pervenisse defendit Bonifacius [illegible] n.° 48. nam [illegible] admittit probationem [illegible] cap. [illegible] unica ... de reiuxeris [illegible] Negativam idem [illegible] edicto [illegible] personaliter citato, ex [illegible] probat [illegible] admit- ... net Guillelmus de monte laudeno [illegible] personaliter. [illegible] ... [illegible] nempe exceptiones [illegible] quas proponere per personaliter citatus [illegible] ... [illegible] ... exceptione ignorantiae quam [illegible] allegare personaliter citatus, ita resolvit Immolatus ... [illegible] 15. Cardinalis n.° 17. et in hoc [illegible] accipiendus [illegible] doctrina Interpretum, quos [illegible] =

n.° 19.

Adversus quam [illegible] l. 1. §. item [illegible] ex edicto [illegible] ... [illegible] item ex edicto [illegible] ... peradictus, quod propositum [illegible] fuit, vel quod ad notitiam absentis [illegible] pervenit nullius momenti esse [illegible] ... citato prodest vel [illegible], aut [illegible] exceptione, quod utrumque [illegible] proxime resolvi, Cui difficultati videtur ... satisfacere [illegible] item ex edicto [illegible] absentis [illegible] quo propositum et affixum [illegible] fuit edictum [illegible] quod edictum fuit affixum. Primo [illegible] docet ignorantia edicti citato prodesse ... l. ab [illegible] C. quomodo, et quod iudex [illegible] properandus [illegible] C. [illegible] l. 4. §. [illegible] ff. de damno infecto ... [illegible] Sed hic [illegible] ... prolata adversus absentes citatus solenniter [illegible] ... valida, [illegible] ... allegat, [illegible] l. ab [illegible] §. [illegible] ff. de judiciis [illegible] ... [illegible] Donellus [illegible] 17. ... cap. [illegible] item [illegible] ex edicto, [illegible] sufficere citationem absentis

[illegible]

[illegible] Bonifacius [illegible] Felinus [illegible]

[illegible] perinde habeatur [illegible] personaliter cit[illegible]

[illegible] Bonif. [illegible] n. 56 [illegible]

[illegible]

[illegible] [illegible] [illegible]

[illegible] citatus [illegible] dict. illam [illegible] extat [illegible]

citare [illegible] vel dumtaxat [illegible] cap. [illegible] sententia de eo qui cognovit consanguineam

uxoris suae c. 1. de eo qui cognovit uxorem, quamquam [illegible] adulterium, notat [illegible] cap. licet [illegible] de sponsa

[illegible] capitulari huic [illegible] clementinae [illegible] cap. [illegible] valde necessarium

nam Bonifacius Octavus statuit generaliter, cum solus duos [illegible] debeat [illegible] alios [illegible]

[illegible] propositum [illegible] propterea quod [illegible] maxime [illegible] verbo [illegible]

de libero homine exhibendo [illegible] verba [illegible] dubitabile [illegible]

idem iuris esse in casu contrario, cap. [illegible] dispensat in puberis [illegible] cap. ad [illegible]

filii presbyterorum, Clem. gravius ubi Cardinalis [illegible] quare [illegible] verba [illegible] expri-

minus [illegible] idem iuris esse in casu contrario; ideo Clemens 5. [illegible] restrinxit dictam extravagantem

ad casus expressos in ea tantum; [illegible] correxit, ut observat Immola [illegible] n. 26.

Denique [illegible] formam [illegible] Clem.

[illegible] contumaciam, sicuti [illegible] citatus [illegible] ut notant [illegible] cap. Venerabilibus § [illegible]

[illegible] excommunicatis [illegible] 6. et in Clem. [illegible] de elect. Ratio est, nam [illegible] citatio [illegible] edictis perinde [illegible] citat.

ac personaliter citaretur, ut docet cap. [illegible] ubi glossa verbo personaliter. Quare [illegible] qui [illegible]

[illegible] citatus de quo in cap. [illegible] de eo qui mittitur in possessionem, [illegible] citatus [illegible]

[illegible] debet, ut docet Immola [illegible] n. 16. ex quibus deducit Cardinalis [illegible] n. 27. [illegible]

Secundus [illegible] nostrae Clem. [illegible] appellare; nam [illegible] personaliter citatus [illegible]

[illegible] ut appellare [illegible] ut docet Inn. in cap. [illegible] accusat. [illegible] cap. [illegible] de elect. [illegible]

[illegible] nec citatus [illegible] edictis [illegible]

Et haec dicta sufficiant de hac nostra Clem. utinam cedant in laudem Dei, Virginis [illegible]

Matris [illegible], et in utilitatem habentis [illegible]

([illegible])

[illegible] Clem. [illegible]

[illegible] decimo quinto generali celebrato sub authoritate Clementis 5. anno [illegible] 13[illegible] [illegible] centesimo [illegible] episcopis [illegible] [illegible] et Tarraconensis [illegible] referunt Belarmin. [illegible] de Con[illegible], electa cap. 5. columna 151. [illegible] de decalogi precepto cap. 17. columna 585. [illegible] pag. 458, 652. Adhuc fuit revocatio mandati [illegible] ad renuntiandum dignitati, seu beneficio [illegible] [illegible] ad notitiam [illegible] talis revocatio [illegible] [illegible] revocationis procuratoris [illegible] [illegible] [illegible] ad notitiam [illegible] [illegible] nulla [illegible] [illegible] de resignatione [illegible] cap. [illegible]

[illegible] mandat. 13. de procuratoribus [illegible] de procuratoribus, L. Si mandatum 15. [illegible] 26. [illegible] mandati, L. [illegible] 1. [illegible] pro socio; L. 1. § [illegible] L. hoc iure 19 §. [illegible] de donat. L. cum pater 77. §. [illegible] de legatis 2. L. si quis 18, L. qui [illegible] 84 §. [illegible] L. [illegible] 38 §. qui debitori [illegible] de solutionibus, L. unica C. de Satisdando, §. item [illegible] adhuc [illegible] de mandato, [illegible] hanc [illegible] Cardinalis Zabarela, [illegible] Vivianus [illegible] Bonifacius de Vitalinis [illegible] n. 18. [illegible] cap. [illegible] 33. n. 15. de resignatione [illegible] Rebuffus in praxi beneficiali [illegible] de procuratore ad resignandum revocato n. 2. [illegible] n. 8. [illegible] de resignat. beneficiorum [illegible] Concilio [illegible] n. 36 usque ad 54. [illegible] moral. [illegible] cap. 22. [illegible] Ioannes de Trechilla [illegible] de renuntiat. n. 81 [illegible] [illegible] et alij plures [illegible] Barb. in collect. [illegible]

n. 2.

Verum licet haec [illegible] tot tantisque 155 [illegible] Romanorum Pontificis oraculis, et melioris testimonijs affirmata [illegible] videatur difficilis [illegible] ex sequentibus obiectionibus [illegible] [illegible] quia a procuratore, cuius mandatum revocatum [illegible] et nullo, [illegible] revocationem ignoraverit, quod plane [illegible] [illegible] §. Si quis donationis [illegible] de divortijs, L. Si quis mihi bona fide 25. §. pater [illegible] [illegible] renuntiatis dignitatibus [illegible] re revocato [illegible] revocationis nulla est, [illegible] mandati re integra revocati [illegible] renuntiare [illegible] pro socio, [illegible] [illegible] procuratori [illegible] renuntiandi [illegible] inanem [illegible]

n. 3.

Secunda dubitatio adversus [illegible] consideratio [illegible] argumento de matrimonio carnali ad spirituale [illegible] canonico [illegible] cap. inter corporalia de translat. episc.; [illegible] nominatim [illegible] ad [illegible] matrimonium [illegible] si mandatum revocet, nec ad [illegible] notitiam pervenit talis revocatio, matrimonium [illegible] revocatio [illegible] ex elegante Bonifacij [illegible] de procuratoribus [illegible] 6. ubi [illegible] matrimonium [illegible] revocatio valere, [illegible] mandati revocatio ad illius notitiam pervenisset; [illegible] similiter quod matrimonium spirituale [illegible] [illegible] si procurator [illegible] ut illi beneficio, dignitati renuntiet, si renuntiatio [illegible] revocatis, licet procurator illius sit ignarus; [illegible] nulla diversitatis ratio [illegible] utrumque casum [illegible] videatur. =

n. 4.

3. Difficultas adversus [illegible] quatenus [illegible] ad validitatem constitutionis procuratoris assignati ad renuntiandum dignitati, seu beneficio requiritur ipsa constitutio sit libera et spontanea, [illegible] renuntiatio beneficij metu facta [illegible] vigorem obtinet, arg. [illegible] cap. [illegible] cap. [illegible] 15. de iureiurando, cap. [illegible] cap. ad aures 8. de his quae vi metusve causa fiunt, cap. maiores 8. § item [illegible] de baptismo, cap. [illegible] 45. [illegible] [illegible] mulier 21. [illegible] de his quae metus causa, L. [illegible] transactionibus [illegible] [illegible] constitutio procuratoris metu concussa ad renuntiandum beneficio, dignitati validum [illegible] ad validitatem huius procuratoris [illegible] libera, et spontanea voluntas [illegible] metu facta valeat, et teneat. =

n. 5.

Denique [illegible] quatenus [illegible] assignari [illegible] [illegible] ad renuntiandum dignitati Pontificali, Abbati, et [illegible] nec illegitimum renuntiat dignitati [illegible] [illegible] talis renuntiatio debet fieri coram [illegible] Romano Pontifex [illegible] cap. 22. [illegible] Clara 6. [illegible] [illegible] Romano [illegible] [illegible] moral. [illegible] 4. cap. [illegible] et alij plures relati [illegible] in collect. ad [illegible] renuntiatio [illegible] Pontifici [illegible] nulla [illegible] Barbosa [illegible]

n. 6.

[illegible] ita [illegible] ... procuratoris ad renuntiationem [illegible] faciendam [illegible]

[illegible] ... et aliis [illegible] ...

proc[illegible] ... [illegible] ... ad [illegible] ...

... habeat ad id speciale mandatum ... [illegible]

... [illegible] ... Hoc [illegible] ... [illegible]

... [illegible] ... sequentia per [illegible] sufficiant. Sereniss[imi] ...

... [illegible] ... procuratoris ... [illegible]

... [illegible] ... [illegible]

... [illegible] ...

... [illegible] ... aut [illegible] ...

... ecclesiasticam negotia agi, et tractari per laicos non debeant ... [illegible] ... [illegible]

... [illegible] procurator laicus hanc renuntiationem acceptet quamvis in suo, seu potius in alterius beneficio cedit ... [illegible]

... testatur Cardinalis Zabarella, et [illegible] de [illegible] ... Rebuffus ubi [illegible] n. 27. [illegible]

... ecclesiasticam renuntiationem in alterius Monacho, est adeo ... [illegible] ... Superioris licentia ...

monachi [illegible] ... monachi a monasterio ... [illegible] in aliquo ministerio ecclesiastico ... [illegible]

... [illegible] ... Rebuffus ubi [illegible] n. 27. [illegible] ...

Loco [illegible] ... [illegible]

n. 7.

Rursus notandum aliqua requiri ad hoc ut procurator constitutus ad renuntiandum dignitatem, vel beneficium, illi possit renuntiare; in primis necesse est ut mandatum per publicum Tabellionem, vel Notarium in scriptis redigatur, et signetur signo publico iudicis Ordinarii, vel communitatis, vel ut postea [illegible] ... [illegible] ... Tabellioni subscribatur. exigitur amplius in mandato ut exprimatur beneficium, et [illegible] ... debet generatim specialiter [illegible] ... facultas ... possit dignitatem, aut beneficium ... sufficit ad hanc renuntiationem faciendam ... generalis cum libera et amplissima potestate ... procurator specialis, et generalis cum libera administratione ... 58, et 69. ... ad renuntiandum dignitati mandatum generale non sufficit; quippe renuntiatio ... donatio ... habens amplissimam potestatem administrandi donare non potest, ... 28. § ... capitulo ... de procuratoribus ... procurator ad renuntiandum dignitati, vel beneficio debeat specialiter constitui. Erit deinde necesse ut renuntiatio procuratoris fiat simpliciter, et absolute in manibus superioris; alias si adsit in ea conditio, vel modus, aliquem designet in cuius favorem fiat, tanquam simoniaca non valeret. Ut si Titius mandatum Caio dederit, ut nomine suo ... Papam vel ordinarium loci beneficio cedat in gratiam Sempronii, et Caius mandato accepto cedat absolute et simpliciter ... gratia, si Caius cedat simpliciter omittens id quod Titius bene mandaverat, talis renuntiatio valebit ... simonia ... hoc casu potius habetur ratio eius quod procurator bene gessit, quam eius quod Titius non recte mandavit. Ex quo efficitur, quod si postea Pontifex, vel Ordinarius loci qui renuntiationem simpliciter factam admisit beneficium ... cuius gratiam resignationem facere procuratori Titius mandaverat, valeat quod gessit Ordinarius loci. ita docent Cardinalis ... n. 7. Flaminius in summa ... de renuntiatione n. 7. Rebuffus, Flaminius, et alii locis supra citatis.

n. 8.

Deinde dicere expedit mandatum de beneficio renuntiando ... superiori resignando morte mandantis finiri ... in Clementina ... de procuratoribus ... procuratore ... vel alio quolibet ... vel beneficium ... revocari ... docent ... decimo tertio quaeritur, ... n. 4. ... Clementina ... cap. 26, ... ut ... habeat locum procuratore ... mandantis ... ex vinculo solvuntur, aut ... deinceps collatio ... mandantis mors debet idonea, et legitima probatione constare, aut ... fama, vel ... aut ex testimonio ... affirmantium ... vel mortem, vel funeri ... interfuisse.

Cum non morte hoc mandatum finiatur, ita etiam ... revocatur, quod fieri potest ... tacite aut expresse ... procuratorem ... mandati ... in Cancellaria, vel Camera Apostolica ... semel ... absolute ... et mandatum revocari nequit. Itaque si procurator habens mandatum ... beneficii ... accipiat a beneficiato, quod illi mandet, ne deinceps aliquid agat, nisi denuo admoneatur, ... beneficium resignet, ... resignatio ... valuit ... licet ... procuratoris ... voluntas ... sufficit, ... rationes ... Flaminius ... Rebuffus ... generatim.

[illegible] sicut et [illegible] experientia [illegible] deveniamus [illegible]
[illegible] ecclesiastici [illegible] cap. [illegible] de iure patronatus, cap. [illegible] electi [illegible]
[illegible] de [illegible] mandato [illegible] accidat [illegible]
[illegible] omnino [illegible] de [illegible] ad [illegible] de [illegible] pro publico, [illegible]
[illegible] revocationibus [illegible] mandato [illegible] circumstantia, [illegible]
[illegible] Cardinalis [illegible] cumulaviat [illegible] ex qua [illegible] illustrissimo, [illegible]

[illegible] compellit [illegible]

[illegible] variat, et instantia [illegible] admittere [illegible]

Sequatur illustrissimo [illegible] insistendo, quas denique sumitur ex [illegible] de [illegible]
post adeptam [illegible] possessionem [illegible] ad eminentiam [illegible] respondit [illegible] cap. quod sicut [illegible] de [illegible] et [illegible]
[illegible] memoria [illegible] postulatus [illegible] a postulato [illegible] praesentata [illegible] posse praesentare et retrocedere [illegible]
[illegible] praesentatis liceret eis [illegible] revocare, [illegible] ita hanc decisionem [illegible]
Cardinalis Zabarella, Bonifacius de Vitalinis et Ancharanus [illegible] cap. [illegible] de [illegible]
[illegible] Albericus, Cravetta [illegible] Spino, [illegible]

n. 10

Unde [illegible] ita [illegible] obstant [illegible] debitum [illegible]
[illegible] adversarij [illegible] Non [illegible] deducta ex quibusdam iuris Caesarei authoritatibus quibus [illegible] gesta a procuratore, cuius
mandatum revocatum est, esse nulla [illegible] revocatum [illegible] beneficij aut dignitatis [illegible]
[illegible] nullius momenti esse. Videtur nam dicendum magis [illegible] inter [illegible] decisum, [illegible] quaeque [illegible]
[illegible] semel facta venerunt a procuratore licet ignaro per [illegible] ad illam annullandam [illegible] et variatio
[illegible] ideo fuerunt nulla gesta a procuratore revocato, quoniam cessavit illustrissimo, at [illegible] superioris [illegible]
[illegible] multum interest an [illegible] mandatarius nominat, nec ne, [illegible] Bonifacius de Vitalinis
[illegible] n. 18, Cardinalis Zabarella [illegible]

Difficultatem [illegible] explicatis habet [illegible] difficultas [illegible] de procuratoribus [illegible]

n. 11

[illegible] ob [illegible] matrimonij celebratis a procuratore revocato [illegible] revocatione nullum
[illegible] tenetur [illegible] favore, qui semper in matrimonio attendi debet [illegible] in illis verbis
[illegible] libertas, [illegible]

Si [illegible] qui [illegible] utrinque [illegible] vindictam [illegible] filio ex mandato patris revocato, [illegible]
[illegible] ex [illegible] si pater [illegible] de manumissis [illegible] qui semper in favorem libertatis observatur [illegible]
servum manumiserit [illegible] manumissio [illegible] libertatis favore [illegible] [illegible] inter [illegible] casus [illegible]
[illegible] de [illegible] Immediate [illegible] pro dissolvenda [illegible] obiectione [illegible]
[illegible] matrimonio carnali [illegible] spirituali [illegible] docet matrimonium spirituale, seu carnale
a procuratore revocato, [illegible] revocatus [illegible] celebratum nullum esse, [illegible] hoc casu [illegible]
[illegible] matrimonium spirituale, aut carnale a procuratore revocato valere, [illegible]
[illegible] admitti debet [illegible] ff. de divortijs [illegible] 1319 [illegible] probat [illegible] libertus [illegible] patronum
[illegible] libellum divortij [illegible] revocationem [illegible] matrimonium [illegible] de matrimonio carnali [illegible]
[illegible] Cardinalis Zabarella [illegible] Ancharanus [illegible] matrimonium celebratum [illegible]
procuratore revocato [illegible] revocatione nullum esse [illegible] mandantis [illegible]
[illegible] nuptias ff. de [illegible] cap. sufficiat [illegible] cap. [illegible] de [illegible] sponsalibus [illegible] beneficij
[illegible] beneficio [illegible] clericis [illegible]
[illegible] cap. ad [illegible] de crimine falsi, cap. [illegible]
[illegible] cap. [illegible] 12 [illegible] cap. licet [illegible] de [illegible] cap. [illegible]
[illegible] et hac decisione venerunt beneficij a procuratore revocato licet [illegible] revocatione
[illegible] robur obtinere docent. [illegible] solutio [illegible] beneficiatis [illegible]
[illegible] beneficio [illegible] valeat, [illegible] revocatio mandati [illegible] nullus [illegible]
[illegible] nec [illegible] beneficiati [illegible] beneficij, [illegible] valeret revocatio mandati, [illegible]
[illegible] admittendus [illegible]

Ab [illegible] solutionibus omissis, [illegible] Thomas Sanchez [illegible]

n. 12

de matrimonio [illegible] 21 [illegible] Basilius [illegible] 2 de matrimonio cap. 5 [illegible] Donellus [illegible] cap. [illegible]
[illegible] mandat [illegible] revocato mandato, ex qua [illegible] valet [illegible]

[illegible] utrobique

Sequitur

[illegible] ... licet debitor [illegible] patrimonii [illegible] ... nemini debeat esse nocitum atque damnosum, ... servus ... de furtis, ... revocatio mandati ...

mandatarii [illegible] valet, ... facta a mandante ... revocationis ... [illegible]

... patrimonio ... nec sua interest ... mandat ... ideo ... valet ...

... revocationis ... mandatari ... interest ... mandati ...

valeat, ... valeat, ... [illegible]

... habet, ... [illegible]

... rigorem ... valeat, ... mandatarii ...

Caueri, specialiter ... [illegible]

... solutus ... n.° 53. ... [illegible]

... revocationis ... [illegible]

... mandatis ... aut ... finiretur ... [illegible]

... procedere ... specialitatis causa ... authoritatis ... rei ... [illegible]

n.° 13.

Deinde non obstat ... difficultas quae ... [illegible]

fieri ... valida, ... [illegible]

... Pontificis Clementis ... mandatis ad ... beneficii ...

... atque liberi ... facta ... valere ... [illegible]

... facta sit valida ... [illegible]

Panormit. in cap. ad aures ... n.° 55. ... Clementin. ... n.° 2 ...

... confirmatione ... Thomas Sanchez ... de matrimonio ... Navarrus ...

... accepta ... n.° 24. ... Flaminius ...

... beneficii ... 9. 1. n.° 29. ... relati.

n.° 14.

Tandem ... adversatur ... [illegible]

assignando interesse Ecclesiasticae, ... authoritate superioris ... [illegible]

... beneficii ... dignitatis debet fieri coram superiore, ... cap. 27. ...

... in decretalibus ... nisi ... beneficii ... superiore ... [illegible]

... eligendo superiore, ... [illegible]

... licet a Cardinalibus ... nec ... legitima, ...

... Pontificali dignitati renunciare, ... curatores ... [illegible]

... Pontificali renunciare, ... Clemente, Ciriaco, et Marcellino Summis Pontificatu

renunciantibus tradit Archidiaconus, et Geminianus in d. cap. ... in 6. ... cap. ...

Deinde ... Summus Pontifex non debet ... ceteri ... inferiores; sed ...

... dignitatibus renunciare valeant, cap. ... decretali ... Summo Pontifice

denegandi: Denique ... interest ... publici, ...

Pontifice inepto, et incapaci ad regendum ... renunciare ... dignitati ...

... quod ad illud ... licitum ... Pontifici suae dignitati renunciare, ... in 6. ...

... Ioannes Andreas ... n.° 4. ...

n.° 15.

Nec ... obstat dicere quod valet ... de matrimonio carnali

spirituale, ut ... matrimonium carnale consummatum ... separari ... Matth. cap. 19.

... Africano cap. 69. ... 24. can. ... Summus Pontifex ... separari valet, ...

... videtur ... licere Pontificatui renunciare, ... valere ... de matrimonio carnali

ad spirituale, ... militat ... in casu ...

... Pontificato ... boni publici, ... Principes, ...

... renunciare ... separatio vinculi matrimonii ...

... matrimonium ... propagationi generis humani, ... educationi ...

... foemina ... postea ... incerta, ... educaretur, ...

parentibus ... publica turbaretur, ... dissolubilitas vinculi matrimonii, ... adversa ...

et bono publico ... admitti, renunciatio ... Pontificatus ... adversa ...

... n.° 5. et Ioannes ... n.° 3.

n.° 16.

Ex quibus ... Decidendum ...

... Pontificii Decreti ... successione ... cap. ... 33. ...

... Cardinalis ... singulari ... excommunicationem ... nobilem ...

ex ca

[illegible lines — upper portion of page faded]

Llari [illegible] an. 30. Gracianus [illegible] Mansica [illegible] de [illegible]
[illegible] demandato [illegible] n.° 6. [illegible] cap. [illegible] n.° 5. [illegible] de mandato cap. [illegible]
Veris [illegible] solutionibus omissis [illegible] putamus magnum discrimen adesse inter procuratores [illegible]
[illegible] qui nominantur ad renunciandum dignitati aut beneficio ecclesiastico, ita ut quod procurator [illegible]
ut revocatio utiliter consistat, oporteat quod iudici, aut adversario pateat, cuius ratio illa est, quia [illegible]
vero procuratorem invalere, nisi prius procurator fidem iudici fecerit, et adversario de tali mandato [illegible]
[illegible] sic similiter revocatio apparere, et notum debet utrique [illegible] de regulis iuris in [illegible]
quod [illegible] loquitur, et procedit [illegible] ex [illegible] 33. de rescriptis, at quod procurator nominatur ad renunciandum [illegible]
[illegible] sufficit quod ipse aut superior [illegible] renunciare [illegible] certioratus [illegible]
[illegible] aut in adversario, aut in iudice [illegible] nullus [illegible] traditus, quo casu loquuntur [illegible] et revocatio
mandati intelligi quod procurator, aut superior [illegible] certiorarentur talis revocatio [illegible] =

[illegible] Adversus [illegible] obstare [illegible] in cap. [illegible] 8. de procuratoribus [illegible]
ubi procurator [illegible] et adhuc [illegible] revocatio [illegible] sufficit quod revocatio [illegible]
[illegible] notaris [illegible] procuratori, et adversario, et iudici [illegible]
[illegible] tales revocatio [illegible] adversarius seu iudices [illegible]
Hostiensis [illegible] adversario [illegible] scribere debuerat ad nos [illegible] ad procuratorem [illegible]
Cardinalis [illegible] oppositum [illegible] aliter haberi quod revocatio ad procuratorem, et adversarium [illegible]
[illegible] omissis magis placet dicere in [illegible] nihil referre an revocatio [illegible] ad [illegible]
[illegible] adversarius, seu iudices; utroque [illegible] revocatio [illegible] fuit, nec adversario damnum afferri [illegible]
revocatio a domino facta fuit post [illegible] nihil posset agere procurator [illegible] revocatio [illegible]
in dicto cap. [illegible] ex [illegible] = [illegible] certioratio de qua loquimur [illegible]
procurator [illegible] debet fieri simul procuratori, iudici, et adversario, [illegible] quod iudici, aut adversario [illegible]
[illegible] ut aperte constat ex dicto cap. [illegible] 33. de rescriptis. [illegible] in cap. [illegible]
[illegible] nam [illegible] 5. Cardinalis [illegible]
[illegible] cap. [illegible] 4. de procuratoribus =

n.° 28.

[illegible] ad cap. [illegible] accedens [illegible]
[illegible] ubi provenitur beneficium [illegible] dubitatur [illegible], hoc est procurator [illegible]
[illegible] intelligatur; [illegible] quod [illegible]
procurator [illegible] de [illegible]
[illegible] procuratori [illegible]
[illegible] spiritualis [illegible] beneficii absentis [illegible] quaestio [illegible]
hanc beneficii ecclesiastici [illegible] procuratore adstante, [illegible] acceptet, [illegible]
decisio [illegible] namque [illegible] procurator ad hoc ut dixerat, [illegible] in manibus [illegible]
resignet beneficium, dignitatem ecclesiasticam, quam [illegible] habet, adeo ut tale mandatum [illegible] revocari [illegible]
[illegible] dignitatibus ecclesiasticis [illegible] dicta, ita [illegible]
[illegible] beneficium [illegible] licet absentis procurator [illegible] habeat ad [illegible] speciale mandatum [illegible]
acceptare, [illegible] nec ei licet variare, [illegible]
[illegible] beneficii aut dignitatis ecclesiasticae [illegible] facta valet et tenet, quanto magis [illegible]
[illegible] beneficii [illegible] procuratori acceptata valeant, [illegible] ad [illegible]

[illegible]

... Benedicti ... Decretalibus ... Abbas ... gravi ...

... quendam ... quem amicum putabat ...

... absolute ... volavit adhuc ut ... manibus ...

postea Abbas ... pristinam sanitatem restitutus ... quendam subditum ...

quam ... libenter ... dubitat in hac ... Abbas ...

... dignitati renuntiasse ... Abbatis ... renuntiasse ...

... Abbatis impetrare licentiam ut ... dignitati renuntiaret ... renuntiare, et in hoc casu ...

... Abbas a ... renunciare ... superiore ...

... renuntiationem faciendi ...

illius ... superioris, aut ... capitulo ... renuntiationem ...

... statuimus ... licentiam ...

... postea ... renuntiatione ... capitulo ...

... Abbas ... licentiam ...

Abbati renuntiare ... ecclesiastico ... capitulo ...

ab ... absolute subditis ... renuntiare. Voluisse ...

superiori. Quamvis ... superioris ...

... difficultas ... Cardinalis ... Abbas ...

... Virginis

... [illegible] ...

[illegible]

Ad tex. in cap. 1. de iudicüs lib. 6.

Celebris repetitio ad Textum in cap. Cum sit ambiguus 1. de judiciis &c.

Ex nostrae Salmanticensis Academiae praescripto, nobilissimi auditores, inter alia, quae hoc semestri nobis explicanda et exornanda assignantur primum occupat locum elegans, et difficilis titulus de judiciis, inter cuius decreta caput extollit tum propter eius elegantiam, tum etiam propter maximam singularitatem textus in cap. 1. hoc tit. de judiciis &c. cuius decisionem solito more exornare pro viribus promittimus, nec parum facturos opinamur, si id consequuti fuerimus, nam ex antiquioribus, et recentioribus scriptoribus pauci extant, qui eius materiam tractaverint, et quod magis est, ex ante cessoribus nostris, nullus sunt, quos legerim, aut viderim, qui eam non omiserint. Quare mihi optabile, et si quid bene attulerimus nostro labori, et desiderio vestrae utilitatis debitis indicate, scitote que nos rubricam huius tituli omnino relegere quoniam olim Pontificii iuris Primarius praeceptor noster pluribus ab hinc annis quolibet quadriennio eam exornare solitus sit.

n.º 2.

Huius nostri textus author fuit Innocentius Papa Quartus vir pietate doctrina, et nobilitate eximius, qui Ecclesiam gubernavit ex anno Domini 1243. usque ad annum 1254. quo tempore plurima scitu digna, ac valde notabilia fecit, congregavitque enim sui Pontificatus anno 8.º contra Imperatorem Fredericum secundum Concilium Lugdunense 1.m generale, ex quo hic noster textus est desumptus et alia quae docent haec, et alia adducentes Platina de vitis Pontificum pag.ª 222. Onuphrius in chronicon pag.ª 58. In eo igitur proponitur pro certa, atque indubitabili regula judicem delegatum simpliciter, et absolute a Romano Pontifice nominatum ad aliquius causae cognitionem non posse facere alterutram partium coram ipso personaliter in judicio comparere, nisi fortasse talis causa criminalis sit, vel pro veritate dicenda, aut pro iurato calumniae faciendo alter ex litigantibus ab ipso vocetur, vel denique quaelibet alia urgens necessitas adsuerit, quae personalitatem expostulet, tunc enim a judice etsi delegato vocatus personaliter debet coram illo comparere.

.. et celebrabit.

Hunc ut textum, ut ipsa plene ac plane maneat illustrata in duas partes dividendam iudicaui. In prima de potestate judicis delegati quoad personalis partium comparitionis agam. In 2.ª casus in quibus haec personalis comparitio precisse requiritur, prosequar. Igitur ad primam accedens sequentem propono conclusionem. Judex delegatus non habens ad hoc speciale mandatum a Pontifice non potest compellere partes, ut personaliter ad judicium veniant in causis civilibus, immo quilibet ex illis procuratorem constituere potest. Probatur haec assertio ex textu in cap. 1. de elect., et electi potest. lib. 6. &c. cap. Cupientes 16. &c. coram nobis comparere personaliter teneantur eodem tit. et lib. probatur etiam ex cap. querelam 1.º de procuratoribus, cap. praeterea 5. de off. et pot. judicis delegati cap. cum dilecti 6. de dolo, et contumacia, cap. finali, iuncta glossa ibidem verbo personaliter de maioritate, et obedientia, sed et civili extra in l. final. C. de procuratoribus. exornant, et illustrant antiquiores omnes ad hunc nostrum textum referentes Dominicus Geminianus, Archidiaconus, Francus, et Joannes Andreas &c. Ludovicus Gomecius in repetitione, quam ad nostrum textum fecit n.º 35. usque 38. fere per totam. Cardinalis Zabarella in clem. 2. ut lite pendente nihil innovetur n.º 45. in prin. Panormitanus, Felinus. et alii in d. cap. cum dilecti de dolo, et contumacia, Didacus de Sahagun in repetitione ad textum in cap. praeterea 5. de off., et pot. judicis delegati n.º 1. Barbosa in collectaneis ad nostrum textum n. 2. et seqq. =

n.º 3.

Verum in limine se offert nostrae decisionis dubitandi ratio, quae in hoc consistit. Judex delegatus potestate, et iurisdictione delegantis fungitur, et regulariter in causa sibi delegata illud potest quod delegans facere solet tanquam eius vices gerens, cap. Sane 11. de off., et potestate judicis delegati, cap. super questionum 27. cap. pastoralis 28. eodem tit., cap. pastoralis 11. de off. judicis ordinarii, cap. 2. de off. et pot. judicis delegati lib. 6. c. grandi de supplenda negligentia praelatorum eodem lib., cap. finali 93 d., cap. 1. 94 dist. l. 1. §. qui mandatam l. finali ff. de off. eius cui mandata est iurisdictio, iunctis quae tradunt Gomecius n.º 64. Sahagun in d. cap. Sane 11. de off. et pot. judicis delegati ex textibus, Zochlerus lib. 12. controversiarum cap. 84. cum duobus seqq. sed Romanus Pontifex potest quemlibet personaliter citare ex textu in cap. cum dilecti 6. de dolo, et contumacia, et etiam ex nostro textu contrario sensu aperte colligitur, propterea quod ille omnium maximus est cap. cuncta per mundum 17. 9. q. 3. cap. solitae 6. de maioritate, et obedientia, in illo omnis residet potestas, cap. cum nobis 6. de concess. praebend. igitur, eius delegatus similiter poterit aliquem ex litigantibus personaliter citare tanquam eius vices gerens adversus id quod in nostro textu statuitur. =

Facile

nº 4

Facile tamen ab hac difficultate liberabimur, si dicamus certe medio judicem delegatum gerere vices delegantis, ipsiusque potestate fungi, verum hoc tantum intelligitur in his quae sunt necessaria ad executionem causae, et sine quibus ipsa expediri non potest, c. 1º de cap. praeterea, de offic. et pot. judicis delegati, quomodo intelligenda sunt Jura in argumentum adducta, in caeteris vero potestate delegantis non utitur. Vel cum citatio personalis necessaria non sit ad determinationem causae civilis, propterea quod per procuratorem idoneum potest tractari, l. 1. ff. de procuratoribus, l. finali. Eodem merito talis citationis exercitium illi merito tamen denegatur, eo enim ipso quod Romanus Pontifex hoc specialiter concessit [illegible] posse videretur, et hoc eo ipso [illegible] vult, in illis merito tamen [illegible], qui a Sede Apostolica mandatum ad hoc non receperit speciale, quasi sensus sit judicem delegatum a Romano nominatum ad aliquam causam cognoscendam, licet [illegible] vero plura alia exerceat, citare non posse personaliter, si specialiter quid tale illi concessum non sit, ita exponunt et explicant praeter nostram [illegible] Dominicus Geminianus nº 12 in fine.

Et in necessariis, et accessoriis delegatus

nº 5.

Descendit hinc decidendi ratio ad nostram [illegible], ideo [illegible] statuitur ipsum judicem delegatum litigantes personaliter citare non posse comparere facere, talemque potestatem illi denegata medio, quoniam certum est litigantibus concessam a iure esse liberam facultatem comparendi per se, vel per procuratores, dum sint idonei, in causis civilibus l. 1. § 2. ff. de procuratoribus, l. Ad Junius 17. § idem Julianus 19 ff. de minoribus, et famosis libellis l. finali C. de procuratoribus, l. praesenti 6. § eiusdem C. de his, qui ad ecclesiam confugiunt, pro [illegible]. De his per quos agere possumus docent Maranta in repetit. ad titulum in l. Si actor 29. ff. de procuratoribus, Petrus Gregorius 49. Syntagmatis cap. 4. et 5. [illegible] 16. [illegible] cap. 9. [illegible] [illegible] Illigerg in notis ad illos capita, nonnulli quoque alii quos refert, et sequitur [illegible] ter Antonius de Richardo in [illegible] instit. de his per quos agere possumus nº 1. ubi quot, et quales limitationes, et declarationes praedicta regula patiatur eleganter prosequitur, et docens nos, hoc ideo permitti quia magno in omodo afficerentur domini si a rebus suis, ut in iudicio personaliter adessent, avocarentur [illegible] in l. Si quis ff. quemadmodum [illegible]

§. quippe de se ex magna parte a rebus nostris revocamur. Cum beneficium hoc agendi, vel respondendi per se, aut per procuratorem a iure indultum cuiquam [illegible] auferendum arg. textus in rescript. [illegible] 17. de [illegible] 1. [illegible] merito in nostro tamen decisione judicem delegatum ob defectum potestatis, ex [illegible] non posse in causa civili personaliter citare quemlibet ex litigantibus, nisi ad hoc habuerit speciale mandatum, tradunt hanc decidendi [illegible] Archidiaconus, et Geminianus [illegible].

nº 6.

Ex his infertur in primis nostram regulam, qua prohibetur judici delegato personaliter citare, adeo veram esse, ut si de facto aliquem citaverit, ut compareat personaliter in causa civili, et expressa causa, talis citatio nulla sit, nec obliget citatum ad comparendum per se, vel per procuratorem, quia in tali citatione procuratoris [illegible] fuit denegata quippe citatus non tenetur comparere quando citatio est notorie iniusta. Veluti si clericus de [illegible] indulitatur(?), citaretur a laico vel quid aliud notoriam iniustitiam obtinens inveniatur [illegible], ut manifeste colligitur ex clem. pastoralis 2ª § notoria nº re judicata, et ex [illegible] cap. venerabilis 15. de accusationibus [illegible] contumaciam, et ex [illegible] finali [illegible] cap. placuit 2. 15. q. [illegible] in finalibus verbis, et ex [illegible] cap. [illegible] 21. [illegible] quod [illegible] congrueret, et [illegible] hic doctrina arg. textus in l. quotiens 13. ff. de [illegible] candidis l. [illegible] ff. de [illegible]. Similiter venire non tenetur citatus, si tempore feriarum citetur cap. finali de feriis l. 1. ff. [illegible]. et denique pluribus aliis omissis, quos congerunt Philippus Decius in cap. olim de exceptionibus [illegible] nº 4 [illegible]

et colliguntur ex praedictis glossis. Si cancellarius huiusmodi Salmanticensis Universitatis judex conservator velut delegatus aliquem citaverit, et teneret citatio, quoniam notorie iniusta adest, licet ei olim dictus cancellarius ad judicium trahere personaliter [illegible] dicto [illegible] existentes [illegible] 4. et julii 2. decreta de [illegible] Universitatis statuta, tamen postea hoc in Bulla Innocentii 8. fuit restrictum [illegible] intelligenda in l. 19 et [illegible] 7. [illegible] cap. [illegible] cap. finali de off. et pot. judicis delegati hoc [illegible], et hoc hodie utimur, ut animadvertunt Orosius in l. 1. nº [illegible] ff. si quis [illegible] Bobadilla in sua politica lib. 2. cap. 19. nº 33. et notare tradiditur, [illegible] in repetit. ad [illegible] cap. [illegible] de off. delegati [illegible] et [illegible].

nº 7.

Huic resolutioni obstare videtur regula textus in l. 2. in fine ff. si quis in jus vocatus non ierit, et in l. 4. § item si quis, ff. ne quis eum qui in jus vocabitur vi eximat, et in l. si quis ex aliena § ff.

judicis

de judiciis, quibus cavetur ex quacunque causa quis vocetur a judice, quamvis ex aliena jurisdictione licet coram ipso comparere debere nisi sui allegaturus, et ideo recte dictus citatus a judice delegato ... parere personaliter, et si non exprimatur causa in tali persona licitatur, nec debere procuratorem mittere. Dicendum tamen superiorem doctrinam procedere quod ... acnotorie citatio est iniusta hence neque procuratorem tenetur comparere, atque ... intelligantur, quod dubium est an citatio teneat, ... exemptus est a jure dicti citantis, aut venire debet coram judice, aut procuratorem qui causam exemptionis alleget debet mittere. Exemplum ... sit in Scholastico, qui exemptus est ... observantiam, ... ab aliquo judice, qui aliam de ... causam erat cognoturus vocetur debet mittere procuratorem, qui ... servatur, et demonstret propterea quod ... exemptus, id per ex capitulo privilegiis, ut aperte colligitur ex authentica habita C. ne filius pro patre, ... recopilationis, tradunt, et explicant Joannes Monachus ... Dominicus Geminianus n. 9. Felinus in capitulo 1 de re judicata n. 7. et ... Covarruvias ... si quis ex aliena de judiciis n. 49.

n. 8.

Ampliatur rursus ... prohibitio itaut habeat locum in Imperatore et Romano ... quibus denegatur ut possint aliquem ... causam in civilibus personaliter citare, qui licet ipsi possint in ... vitare, et qualiter qualiter ... §. ... Principi ... de ... naturali gentium et civili, l. princeps ff. de legibus, ... quod tradunt antiquiores, ... quaesitis ... ex lege positiva ... per ultimam voluntatem, quam ... ne aliam ... auferre non potest; ... non possit validare ... nullum ex defectu legitimae solemnitatis, post quam ex nullitate ... adquisitum ... tradunt ... Pinelus in ... rescindenda venditione 1. p. cap. 2. n. 22. ... Sarmiento lib. 3. selectarum c. 8. n. 6. Cobb. pract. ... cap. 21. n. 2. et lib. 3. variarum resolutionum cap. 6. n. 5. ... Merito ... beneficia ... neque ... a Papa auferri negatur, ... si ipse Pontifex simpliciter aliquem citaverit, ... videtur illi derogare, argumento textus in l. digna vox 4. C. de legibus, ... de officio legati cap. 2. ... de ... capitulo ... de re judicata, nec tunc personaliter debet comparere, sed procuratorem mittere ... simpliciter, et absolute ... personaliter Pontifex citaverit, ... si causa talis citationis ... exprimatur comparere debet personaliter ... in dubio ... causam in Principe ... ad ... inferiores judicis ... receptum a Cobb. et Pinelo ... in l. ... ff. ... et ... notant Abbas et ceteri antiquiores ... juris ... de constitutionibus. Haec que personalis citatio a Pontifice ... solet ... ut ... compareat ... parte, ... denotant ... Rebuffus ... 44. §. finali de elect. ... cap. cum dilecti de dolo, et contumacia, ... de elect. ... l. jubemus 2. C. de erogatione militaris annonae lib. 12. docent Simancas ... n. 54. Geminianus ... n. 6. ... =

n. 9.

Verum hanc doctrinam evertere videtur elegans, et difficile Innocentii 3. decretum relatum in capitulo cum causa 6. de jurando calumniae, ubi proponitur quod ... inter Archiepiscopum Ravenatensem, et commune Faventinum super aliqua villa, quibusdam que aliis rebus, ... causa fuit commissa judicibus delegatis, qui in negotio minime processerunt. Quare ... partibus praecepit, ut ... coram ... se repraesentarent. Cuius procuratores ... quaeritur an admittendi sint, et ... calumniae ... procuratoribus utrinque praestari. ... ubi licet litigantes vocati fuerunt, ut personaliter coram Papa ... adesse tenentur; ... sufficit procuratorem mittere, ... quod recte asserimus ... personaliter quis ... citatur, ... personaliter ... = Hujus decreti difficultas adeo magna est, ut plurimi ... solutiones ... excogitatas ... Panormitano in dicto capitulo cum causa, et a Lucovico ... 31. ... Illa tamen ... placuit ... consistendum esse in verbis illa ... pareat, et in verbis illa, ut ... repraesentet. 1. casu, quo ... citatio ... compareat, ... personaliter citatus, quoniam aperte colligitur ... mentem ... nec sufficit procuratorem mittere propterea ... voluntati, ... procedat superior doctrina. 2. casu, ... ut se ... repraesentet, licet illa qualiter qualiter ... exigere videantur ... l. 1. ... ff. de V. S. tradit ... de sepulturis ... tamen haec ... attenta ... accipitur, ... praesentare ... personam, ... quia ... citatio in causa ... ut ... se, vel procuratorem, ... in hoc casu procedat, ... intelligitur ... cap. cum causa de jurando calumniae, tradunt Felinus ... n. 3. ... capitulo ... de appellationibus n. 3. et 4. Panormitanus, et ... n. 29. ... intelligenda ... 44. de elect.

et alibi pote, tex. in cap. postulationes, de postulat. prelator. cap. ex positum 4°. de dilationibus, quibus in utrisque ... ita accipiam ut diximus. =

n°10.

Inferam deinde ... iudice delegato, Verum ... locus habere, itaut quemadmodum ille personaliter citare ... necesse, quod probari videtur ex dec. ... Clem. de procuratoribus ... propter nemini ... debere in causis civilibus personaliter comparere nisi maximi iudice pro ex urgentioribus ... si servus sit ... maxime iudices id est Ordinarius personaliter citare, nisi ex aliqua causa adjuverit, quod idem delegatus ... [illegible] ... iudicem delegatum ... [illegible] ... ubi aliqua adducit fundamenta ad ... licet ... cuius rei ratio, quoniam nullibi scriptum reperitur iudicem Ordinarium hanc potestatem habere, nec aliqua ratio diversitatis ... cur potius ordinarius possit personaliter citare quam delegatus, cum in hoc pares videantur, sicut et in aliis ... ex ... cap. finali de rescriptis ... per litteras. =

n°11.

Haec doctrina duplici difficultate videtur obscurari. 1° ... dicto iudicis ordinarii favorabilior est, quam delegati, ut docet glossa in cap. de rescriptis ... de exceptionibus ... Ordinarius ... volumus ... citare personaliter. ... finali C. de procuratoribus ... de iudiciis delegatis ... delegat. locus ... Ordinarius ... potest personaliter citare. Facile ... difficultatibus ... permanentes ... dicamus illam ... favorabiliorem esse Ordinarii quam delegati ... intelligi, et procedere in illis ... in ... finali C. de procuratoribus ... delegato ... delegatum ... ordinario secundum ... opinionem, quae probatur ex cap. ... de officio delegati, et ex cap. ... officio ... iudices delegati. = Minus obstat 2° difficultas, ... delegato, verumque de ordinario ... aliquid nempe ... de novo ... colligitur, ... de iudiciis ... de iudicibus ordinariis debent intelligi arg. tex. in cap. ... ordinarius ... inter ... intelligi debent, l. 1. § ... ff. si ager vectigalis petatur ... ff. de ... ordinario ... speciali ... l. ... 10. § 1. ff. de annuis legatis. Quo respectat illa ... doctrina proposita in cap. finali de ... ut quod aliquis potest, ... delegatus et ordinarius ... ex ... debet in dubio intelligi quod ... ordinarius, quod ... emendat Barbatia in cap. ... col. 10. de officio legati ... ex ... ordinarii ... prohibitione ... merito dicendum est ad similitudinem delegati citare ... ita ... =

n°12.

Haec quae diximus respectu iudicis ordinarii procedunt in citat. ... extraordinariis ... citatio, ut ... colligi videtur ex illo ... extraiudicialibus in quibus aliter proceditur, et in quibus citatio personalis fieri potest, itaut potest Ordinarius ... cogere subditos ... comparere, ut ... vel ... vel ... ordinem ... cap. 1. de ... vel ad ... presbyteros cap. ult. 18. dist. vel populus ad ... cap. ... § ... plurimaque alia huiusmodi generis facile, in quibus ... obedientes, arg. tex. in cap. quod Culpatur 4. 29. q. 1. ... finali ... aliquando ... de maioritate et obedientia, quam subditi ... obedientiam promittunt, ... cap. ... de maioritate et obedientia, tradunt ... Joannes Monachus, et ... Gomecius ... = Intelligo ... observatur, nec ... quoniam ... ordinarius ... in ... vel ... Gomecius, licet ... Seminarius ... Nec ... valide ... de ... ordinario ... in ... 124 ... sicut in ... tradunt ... Vendiones, ... ordinarius, quemadmodum citare potest

[illegible]

in iudicio, nec extraiudicialiter quid tale facere posse, quoniam domine [illegible] de iudicialibus ad extraiudicialia tunc valere, quod habemus in [illegible] quem notant Bartolus, et caeteri antiquiores [illegible] stipulans [illegible] §. 1. de V. O. Jasson in [illegible] [illegible] notabiliter [illegible] circa [illegible] iudicialia, et extraiudicialia ad [illegible], ut praediximus, merito [illegible] iudices ordinarij [illegible] citare personaliter posse, ex [illegible] utique, docet ita [illegible] argumentis Dominici Seminiani [illegible] Bononiensis, Gomezius [illegible] n.° 72. =

n.° 13. Similiter [illegible] procedit in arbitris, ita ut sicuti delegati nequeunt personaliter comparere facere litigantes, nec illi hoc possint, quia ideo est statutum quia arbitria redacta sunt ad instar iudiciorum, exceptis casibus [illegible] expressis [illegible] L. 1. [illegible] quemadmodum 32. [illegible] de recept. [illegible] quos tradunt [illegible] eadem Bartolus et caeteri antiquiores, et post eos Gomezius [illegible] n.° 39. Maranta in praxi aurea [illegible] fol. 357. n.° 31. in [illegible] penes quos recte exagitatur in quibus conveniant et in quibus differant arbitri et caeteri iudices, [illegible] loquentia de iudicibus delegatis locum habent in arbitris cap. penult. de off. et pot. iud. deleg. tradit Panormit. [illegible] n.° 19. [illegible] nostris in arbitris procedere debere. Nec obstat probant [illegible] Pauli in [illegible] §. si dominus [illegible] Si domini qui invicem stipulati procuratores [illegible] agere apud arbitrum velint [illegible] adeo, ex quibus probari videbatur [illegible] quem coram arbitro teneri [illegible] procuratores, [illegible] personaliter adesse debere; nam dicendum est praedictam decisionem tunc procedere quando [illegible] fuerit, tunc quemadmodum delegatus, et ordinarius litigantes compellit, ut personaliter compareant, similiter arbiter, qui de causa aliqua cognituros id facit, et recte superiori ratione [illegible]. docent hanc solutionem Baldus in d.° §. si domini, [illegible] eadem [illegible] Gomezius ubi [illegible] n.° 39. et colligitur ex glossa in d.° §. si domini [illegible] ipso [illegible] ratione [illegible] finali de procuratoribus. Et haec est vera, quamvis contrarium defendere tentet Felinus in cap. penult. de off. et pot. iudicis delegati, quae quadamtenus refellenda est.

n.° 14. Verum superiori [illegible] assertioni in primis fortiter obstare videtur decisio [illegible] Decreti relata in cap. praeterea 5. de off. et pot. iudicis delegati, ubi proponitur iudicem delegatum nominatum fuisse a Rom. Pontifice ad cognitionem alicuius causae, quae simpliciter et absolute illi fuit [illegible] sequenti modo. Causam, quae vertitur inter tales [illegible] committimus terminandam, quod [illegible] fuerit [illegible] dubitatum [illegible] hic iudex [illegible] quod in rescripto de aliqua re speciali [illegible] compellere [illegible] personaliter ad pedibus [illegible], et [illegible] contumaces sint [illegible] ecclesiastica severitate coercere, et respondit [illegible] hoc omne illi concessum intelligi, [illegible] omittantur [illegible] praeterea [illegible] plena potestas superioris [illegible], intelliguntur [illegible] quae ad causam ipsam expectare noscuntur. Ecce [illegible] iudici delegato permittitur, ut possit citare, et coram se personaliter comparere facere litigantes, licet expresse quid tale in rescripto illi concedatur, [illegible] recte [illegible] iudicem delegatum, qui ad illud [illegible] habet speciale mandatum [illegible] litigantes personaliter coram se protrahere. =

n.° 15. [illegible] difficultas adeo gravis mihi [illegible], ut semel, et iterum quid in la[illegible] dicerem exagitassem. Aliquando putavi hunc [illegible] loqui de citatione [illegible], [illegible] de citatione absoluta, ita ut citare [illegible] curatorem [illegible], hocque colligebam ex illis textus verbis [illegible] compellere. Facile [illegible] ab hac [illegible] decessi, quoniam [illegible] contumacem ut veniat, aut damnare si non veniat, [illegible] personaliter venire debere [illegible] iudice delegato nominatum. = Putabam [illegible] procedere in causis criminalibus in quibus [illegible] debet comparere, nec per procuratorem [illegible]. Verum meam [illegible] duplici ex causa. 1.° quia [illegible] de iudice ecclesiastico loquitur, ut patet ex illis verbis, et [illegible] contumaces severitate ecclesiastica coercere. Ecclesiasticus [illegible] potest cognoscere de causis criminalibus criminaliter [illegible] inter laicos, cap. [illegible] 4. cap. [illegible] 8. cap. [illegible] 17 [illegible] delegatis [illegible], [illegible] de causis criminalibus nequit intelligi. 2.° quia omnino [illegible] causa simpliciter facta intelligitur causa [illegible] ostendere cap. 2. de off. vicarij [illegible] notat Baldus in cap. significasti 7. de off. et potestate iudicis delegati Dominicus Seminianus in cap. licet 2. de off. vicarij in 6. notabili 2.° et I. [illegible] in praxi pontifica cap. [illegible] n.° 2. = Denique existimavi [illegible] cap. praeterea iudicem delegatum posse personaliter citare litigantes quoniam hoc expediebat ad determinationem illius causae, et illa [illegible] expediri, quin personaliter adessent, [illegible], quia [illegible] siderabat animum [illegible] ex interrogationibus actoris, et rei responsione; [illegible] et [illegible] [illegible] dicemus; et quod [illegible] cap. praeterea ita debeat intelligi in [illegible] videntur illa verba, et [illegible] contumaces coercere; [illegible] contumacia intelligitur ex loquendi, quia legitime [illegible] venit, [illegible] ex hac contumacia [illegible], et intelligatur [illegible] adeo, [illegible] iudicem delegatum posse citare personaliter litigantes [illegible]

[illegible]

vilos simpliciter cessaret cognitio causae, vel certus sit certa aliqua re, permissa intelligi debeat, sine qua talis res exerceri non potest, l. 2. cum vulgatis ff. de iurisdictione omnium iudicum, ubi quae tradunt Petrus Gregorius libro 47. Sintagmatis capite 22. Sahagum in dicto capite praeterea n. 4. et melius. =

n° 16.

Adversus hanc doctrinam, qua tenus diximus iudicem delegatum posse personaliter litigantes personaliter citare, et contumaciter adstante causa valde obstat difficile Milevitani [xliii] Decreti, capite 29. relatum in capite quisquis 11. q. 3. [illegible] in illis verbis, quisquis probatus fuerit per contumaciam nolle obtemperare iudicibus, cum hoc illis sedis episcopus probatus, det litteras, ut nullus episcopus ei communicet donec obtemperet. Ex quibus verbis aperte probatur iudices delegatos nominatos ad cognitionem alicuius causae, si contumaces existant litigantes in veniendo, aut in obediendo, suspectis de causa in cognoscendo, sed potius eos remittere debere ad superiorem; quod in recta dictum est in dicto capite praeterea, si iudices delegatos contumaces coercere posse litigantes, quod abest et ratio coram se personaliter venire facere. Hanc difficultatem tetigit glossa in dicto capite quisquis, ut quae dissoluat in nullas adducit solutiones, plures alias referunt Archidiaconus, Turrecremata, et Belanera, Ademum que Sahagum in dicto capite significasti n. 5. alias refert, ex quibus nos posteriorem amplecteremur, nisi post modum aliam veriorem et ampliorem inveniremus. Quo his omnibus omissis dicendum est in dicto capite quisquis agi de iudicibus delegatis, sed tantum de iudicibus electis, id est, de electis a partibus consensu, ita ut sensus sit nollentes obedire praeceptis iudicum ab ipsis litigantibus electorum statim ac quid tale primus sedis episcopus constiterit puniendos esse ita ut illis communio denegetur donec obtemperent, cum his etiam non loquatur de iudicibus delegatis; sed potius ~~de iudicibus~~ electis, ~~[illegible]~~ non enim in obediente ad alterum iudicem remittendus est; hoc namque in propria illius fuit factum, quoniam inobediens fuit iudici a se electo. Sicque superior difficultas cessat, cum nos de delegato loquamur, neque dicti authores quid quam dicant aut de citatione, aut causae cognitione. tradit eleganter hanc interpretationem Innocentius Cironius libro 2. observationum capite 2°. =

n° 17.

Secundo eidem nostrae assertioni obstat textus in capite finali de maioritate et obedientia, ubi cum quaestio esset orta super iure Primatus inter Archiepiscopos Burdegalensem, et Bituricensem, de qua loquuntur textus in capite exposuit 4. de dilationibus, capite finali de dolo, et contumacia, capite cum quis tres 8. 9. q. 3. et est videndus Azor 2a parte institutionum moralium libro 5. capite 36. in principio) fuerunt iudices delegati nominati a Gregorio 9°, quibus fuit praeceptum, ut quandam provisionem Pontificiam notoriam facerent, et quod si forte illi consentire renuerent, illos facerent, dicti praelati personaliter coram ipso comparere, sive capitula, idoneos procuratores nominare, ut illis quod habere contenderent prosequantur, et parti alteri, si succubuerint satisfaciant in expensis. Ex quibus ubi iudices delegati si nominati a Papa ad cognitionem cuiusdam controversiae, et in statuitur citatos personaliter comparere debere, quod in recte dicta vero tamen potestatem hanc penes delegatos non esse. Haec difficultas facile dissolvitur, si animadvertamus in dicto capite finali iudices delegatos non fuisse nominatos ad determinationem illius causae, ut in nostro tamen, sed tantum illis fuisse praeceptum ut notificarent Pontificiam provisionem; ergo quod praelati debeant personaliter comparere, debet intelligi coram ipso Pontifice, qui de tali causa agit, non coram iudicibus delegatis, quibus Pontifex hoc praecepit. Summum namque Pontificem hanc potestatem habere plus quam certum est sicuti superius tradidimus, et manifeste ex nostro tamen colligitur, verbum in dicto capite finali in delegatos, sed potius Pontifex praecipiat, non esse praelatos cogendos esse personaliter coram eo comparere. Hac laborant aliud in illa [illegible] iura alias difficillima in capite ex dilecti 6. de dolo, et contumacia, et finali de dilationibus et alium tradit glossa nostra ubi iudicem delegatum [illegible], quamvis citentur ad [illegible] repetentes [illegible] tamen in dicto capite finali de maioritate et obedientia [illegible]. =

n° 18.

[illegible] eidem nostrae resolutioni adversari textus in capite pastoralis 28. de officio, potestate iudicis delegati, ubi postquam [illegible] proposuerit iudicem delegatum recte posse causam sibi commissam alteri subdelegare, eumque renitentem compellere, ut eam exerceat, dummodo causa exonerare delegatum [illegible] [illegible], sequentia addit verba, item sumus, nec ob hoc aliquis possit committere delegatus, sicut superius est expressum citationis officium potest cuilibet, discretae personae demandare, ac puniendo [illegible] contemptum. ex quibus aperte colligitur iudicem delegatum nominatum ad cognitionem alicuius causae eam posse subdelegare quoad citationem, itaut subdelegatus citare possit personaliter litigantes, igitur si subdelegatus id facit ea provenire videtur, quoniam delegatus habet potestatem citandi personaliter litigantes adversus id quod in nostro tamen diximus. Facile tamen ab hac difficultate liberabimur si dicamus in hoc textu non agi de citatione personali, sed potius de [illegible] [illegible] hoc est [illegible]

idē

de [illegible] ut illis faciat per procuratores comparere, quasi sensus Pontificis sit judices delegatos, qui possunt committere causas alteri delegatas posse etiam citationis munus tantum committere propterea quod causa ad tantae rationis, cum totum est concessum, pars concessa intelligitur, ex tex. in l. qui de toto 76 ff. de rei vindicat. Clement. 2. de rebus eccles. non alien. vel in. Vel quod citatio de qua in d. cap. pastoralis illius effectus ordinatur, ut per procuratores compareat litigans, in enim delegatus [illegible] subdelegare, committere posse. Nec hoc dubium est; quippe aliter predicta auth. intelligi nequit, et hunc intellectum tradit Beroius in capit. de officio jud. deleg. n.° 26. Philipus Decius in d. cap. significasti 7.° penes quos examinatur, qualiter possit delegatus subdelegare et utrum id habeat locum in nominatis ab inferioribus judicibus. = Vel sic resolutio alicui si placuerit poterit dicere ideo subdelegatus potuisse citare litigantes personaliter, quia desiderabat se informari de intentione sua, ut tradit contra alios antiquiores Gomecius [illegible] n.° 42. et medium. =

n.° 19.

[illegible] in quarum nostri Caesarei professores opponi potest textus in l. contentaneum ff. [illegible] quando judex sententiam proferre debeat, ubi in absentem vel ad cogendum eum ut se repraesentet, ex quibus verbis aperte probatur judicem posse citare partes realiter, id est capiendo earum personas, quod similiter poterit citare, ut personaliter compareant, cum plus sit capere et [illegible] quam ut veniant, atque adeo in vestigio [illegible] cavetur de [illegible] et delegatis, et ordinariis, et arbitris, posse personaliter citandi. =

Verum ut hanc difficultatem diluamus, asserimus in d. l. contentaneum agi de citatione reali, quae fit per capturam personae, quae licet regulariter non habeat locum in causis civilibus propterea quod citatus satisfacit mittendo procuratorem, [illegible] ad [illegible], quoniam quod judex eum ita causa citaverit [illegible] ut compareat personaliter, vel etiam ex judicio [illegible], si citatus contemnat praeceptum judicis, jubere potest ut capiatur, et ut de domo sua in judicium trahatur propter delictum contumaciae. [illegible] d. l. contentaneum hic [illegible], [illegible] litigans [illegible] committi. Quomodo etiam intelligenda [illegible] l. [illegible] ff. de rei vindicat. l. unica ff. si quis [illegible] auth. [illegible] exhibendis reis §. sin. semel, vers. [illegible]. = Nostri vero loquitur de citatione verbali, quae fit vel [illegible] judice, vel per nuntium ad id nominatum; in quo contumacia [illegible] cessat citatio realis, id est captura, [illegible] contumax quemadmodum in delictis [illegible] locum [illegible], sic similiter in [illegible] observaretur. = Nec hanc [illegible] turbat decisio textus in l. plerique 18. ff. de in jus vocando, ubi statuitur neminem de domo sua ad judicium per vim trahendum esse propterea quod unicuique domus sua tutissimum sit refugium, nam dicendum est hanc regulam limitari, quod nota [illegible] contumacia adest in vocato ad judicium, qui [illegible] judicis [illegible], et quamvis absolute illud proponatur, debet intelligi ita ut contemnat deficiente contumacia [illegible] curatorem mittere, adstante vero protervia personaliter posit capi [illegible] late prosequuntur hunc intellectum adducentes Bartolus, Jason, et alii in d. l. plerique per totam. =

n.° 20.

Denique quatenus ex dictis colligitur in causis civilibus procuratores [illegible] et nominari posse obstat textus in cap. pastoralis 14 de judiciis ubi proponitur principales personas in judicio debere factum suum proponere per semetipsos, cum in recte noster textus concedit partibus liberam facultatem comparendi per se, vel per procuratorem, facile tamen haec difficultas diluetur si dicamus in d. cap. pastoralis tantum prohiberi, ne actor proponat factum in judicio per advocatum, nec sine ratione, quippe si admitteretur, illusorium redderetur judicium, cum ad officium advocati non pertineat offerre petitiones, aut eis respondere, sed tantum instruere ex l. advocati C. de advocatis diversorum judicum, non ut excludatur procurator, qui principalis persona judicatur cum per litis contestationem fiat Dominus in tantum cap. 1.° §. 1.° de procuratoribus in 6.° l. in solis ff. [illegible], neque enim [illegible] certum est tam actorem, quam reum per se vel per procuratorem posse litigare. Nec hunc intellectum conturbant illa verba textus per seipsos, quae non imponuntur absolute, sed tantum ad excludendos advocatos. Quod in fine textus proponitur, ut pro indiscreta persona admitti advocatum, intelligi debet non in discretam, pariter praesentem, quia reputatur persona principalis proponere factum per advocatum quod est praesens l. 1. C. de errore advocati, l. si procurator ff. de V. O. cap. cum causa de appellat. et hoc modo videtur in venerien[illegible] l. 4. C. de sententiis, et interlocutionibus ita explicant Abbas, Panormitanus, Immola, et Felinus et alii in d. cap. pastoralis n.° 20. Qualiter solum intelligenda sint ea alias difficillima in l. 2 C. de his, qui veniam aetatis impetrarunt, et in l. jubemus C. de emancipationibus liberorum in quibus idem statuitur. =

n.° 21.

Haec de prioribus nostri textus partibus dicta sufficiant. Et ad secundam accedentes, proponemus [illegible] quibus permissum est judicibus citare litigantes ut personaliter in judicio compareant, ac proinde non liceat partibus procuratores nominare, qui vices suas gerant. Itaque in primis judex delegatus potest in judicium personaliter comparere facere litigantes, quando Princeps specialiter illi quid tale concesserit, quia cum Princeps, ut superius diximus, id possit, in enim cui voluerit illud concedere. Cujus concessionis virtute, quam veram esse fatetur [illegible] speciale [illegible] [illegible] recepta [illegible] tantum reum, immo et actor personaliter comparere a judice cogi potest, quia non debet actori licere, quod reo permissum non est, ne deterioris conditionis reus quam actor judicetur, ex [illegible] ff. de R. J. cap. finali de mutuis petitionibus l. finali C. de fructibus et litis expensis, et hoc non tantum locum habet in causa criminali, verum etiam in civili, dummodo delegatus specialem habeat commissionem personaliter citandi, cum pars rei adversarii interesse [illegible], quia fortasse super defensionibus melius sciret veritatem

q procurator, tradunt Joannes Andreas, Dominicus Geminianus, n.º 4. Ludovicus Gomecius n.º 15. et 16.=

n.º 22.

Huic solutioni, et resolutioni licet vera sit nulla obstare videntur; in primis refragatur illa iuris regula, qua cavetur illud, quod ob gratiam alicuius concessum est non debere in eius dispendium retorqueri, de qua in l. quod favore 6. C. de legibus, et in cap. quod ob gratiam 61. de reg. iur. in 6. In hoc casu actor qui impetravit rescriptum delegatorium; si ita fuerat ut etiam posset in causa civili reum facere personaliter comparere, quod non debet illa gratia in odium eius redundare, ita ut ipse etiam cogatur personaliter adesse. Ad Vrbem dicendum est praedictam iuris regulam intelligi non quando actor immediate et principaliter damnum sentit, sed potius ex consequenti, et favore damnum resultat, tamen non necessario consequentia gratiam concessam, de qua in l. cum exonerat 44. in fin. ff. de excusat. tutor. ex qua lege tradunt Baldus in d. l. quod favore, Innocentius in c. initium. ff. de exceptionibus, Decius in cap. cum venerabilis 6. de exceptionibus, n.º 10. Sarmiento lib. 3. Selectarum cap. 12. n.º 5. Et tum etiam ut actor reum impetret ut etiam possit personaliter, debet subire onus, ut in necessario consequentiam ipse etiam personaliter compareat, quia actoris, et rei ut praediximus debet qualis esse conditio. Verum haec doctrina procedit quando Pontifex concessit delegato talem potestatem ad id non motu proprio, sed ad petitionem actoris, quippe tunc ledi is videtur, qui impetravit contra adversarium l. 1. in princ. l. 8. ff. quemadmodum. Nam quando Pontifex motu proprio hanc gratiam concesserit, tunc talis gratia non debet retorqueri in odium obtinentis, ut suadere videtur in cap. si plures 17. et in cap. si motu proprio 23. de praebendis, et dignitatibus lib. 6, et tunc per intelligi tantum dicta regula, quod obtinens gratiam ex culpa conducit et illam, quod concessa gratia ex proprio motu cessat ex culpa obtinentis culpa importunae petitionis argumento text. in cap. si quando de rescriptis, et in cap. et si de praebendis in 6. et in l. 1. C. de fideicommissis lib. 10. tradunt Joannes Andreas, et Geminianus, et Ludovicus Gomecius ibidem n.º 10. et sequentibus.=

n.º 23.

Secundo obstare videtur altera iuris regula, qua docemur beneficium non aut minime auferendum esse, de qua in regula in dubiis 17. de reg. iur. lib. 6. Nam in causa civili adest iuris dispositio, quod quis per se vel per procuratorem comparere: Quod actor non est cogendus personaliter comparere, cum non fuerit praescriptum illi, sicuti reo sibi. Huic satisfacimus dicentes beneficium hoc de quo in nostra actori auferri respectu adiuncti seu correlativi, id est rei, quia actor non debeat aliquid licere actori, quod reo non liceat, ut iam diximus, merito si voluit illo favore, ut possit compellere reum personaliter comparere in causa civili, debet in eodem gravari, ut ipse etiam personaliter comparere teneatur. Nec impeditur a praedicta iuris regula nam procedit in aliis rebus, in quibus dubium non est, quod conveniatur actor, et sic, tunc non praesumitur Pontifex favore rei speculi velle aliquid concedere actori; sed intelligitur hoc esse iudicare utriusque iuris regulas docet Gomecius n.º 24.=

n.º 24.

Denique huic nostrae resolutioni refragari videtur illud nostri textus verbum alterum; cuius vocabulum videtur esse, ut alterum de duobus includat, cum sit disiunctiva, ex text. in l. de die 3. C. de rescindenda vendit. ut tradunt Aretinus in l. in duobus 3. § vidua. in princ. ff. de duobus reis, Bartolus in l. hoc ordine 29. in fin. ff. de heredibus instituendis, sed ad veritatem disiunctivae sufficit quod altera pars sit vera, l. ita stipulatus de V. O. cap. inter ceteras de rescriptis; et ex quo non est compelli potest personaliter venire, satis verificatur, et re ipsa certo statui debuit, ut non adimatur adversus quod dictus extat. Facile tamen hic nodus dissolvetur, si animadvertamus illud verbum alterum ex antiquum et quandoque coniunctive, quandoque non disiunctive accipi, quod autem pluries sensum duorum significet, et requirat, probatur ex auth. ut pulli iudices, § quia vero ex auth. de mandatis Principum § deinde, et facit illud sacrae Scripturae relatione ff. afferte mihi alterutrum peccata vestra. Vel ex coniunctive posset accipi dicendum est nostri textus illud verbum alterutrum intelligi debere, ita ut et reus et actor personaliter citetur, si iudex delegatus adid habeat speciale mandatum, vel quod aliqua ex causa adest, ut inferius dicemus. tradit Gomecius n.º 26.=

n.º 25.

Quamvis verum sit iudicem delegatum habentem speciale mandatum ad personalem citationem faciendam id facere posse, tamen hoc obstat quandoque, si quando id sequitur in praeiudicium ex causa, tunc quis nec per se, nec per procuratorem debet comparere nisi impedimentum longum esse speretur, ita tamen in liberis, ut probant text. in l. cuncti 16. § 1. ff. de excusationibus, l. si longius 18. in princ. ff. de iudiciis. Quo spectant etiam text. in l. quisquis 60 in princ. ff. de reg. iur. l. 2. § si quis in iudicio ff. si quis cautionibus. vel causa celeritas id expostulet, cap. cupientes 16. § quod si per viginti de elect. lib. 6. vel in his Pontifex citavenit, ut appareat per se, vel per procuratorem cap. cum dilecti de dolo et contumacia. Idem etiam observatur si neque ex absente fuerit litigans, sive sit reus, sive actor, dummodo sit capitalis, quippe si iam litigabat, nec in suspicione debet procuratorem relinquere; alias valeret processus ex absentis facta ex textu in l. finali iuncta facit quam Bartolus, et ceteri antiquiores sequuntur ff. de re iud. text. in hoc non debet intelligi in ea aliquo difficilima in ablo Cquomodo, et quod iudex l. 12. tit. 7. part. 3. l. 10. et 11. tit. 23. part. 3. = Nam literae comparere debet citatus quod locum capitalis ex titulus tenetur, quo casu si vel litigans nec per se, nec procurator debet comparere, si id impendentis Domino, a quo tam imminet, cap. exigit 47. de appellationibus; sequens vero etiam si in procuratore cesset timor cap. olim de capitalis, ita ut

In

Innoc. et Decius in d. cap. exp. et nervose defendit Somecius tt. n.° 26. Cum seqq. Licet contrarium asserat Imola in cap. 2. de procuratoribus n.° 3. Franciscus in d. cap. exp. n.° 7. = Nec quidquam obstat illud quod statuitur in cap. intelleximus 7. de judiciis v. excommunicatus in judicio debere admitti procuratorem, et in l. Papinianus 20 ff. de minoribus, et in l. nostri preterea 26. § 1. ff. ex quibus causis maiores quibus probatur exules, aliosque impeditos non procuratoris in judicio parere debere, nam dicendum est haec et alia plura circa hoc dicentia intelligi in illis qui non impediti sunt crimine ab illis commisso, hoc casu ubi gravius natura delicti eos repelli tam civilibus quam criminalibus expostulat ratio; nos vero loquimur quando impeditus fuerit absque culpa litigantis. =

n.° 26.

Praeterea judici delegato committitur, cum libet quae alteri ut personaliter litigantes compareat, faciat quod causa fuerint criminales et criminaliter intentata, ut notat ex textu n.° 4, nisi criminalis fuerit causa, junctaque statuto criminalis, ex quo evenit in iisdem causis procuratorem non admitti, l. penultima § ad crimen ff. de publicis judiciis, l. servum 33. § publice ff. de procuratoribus docent iterantiquiores inter adductos repetentes, et Somecius n.° 29. Felinus in cap. ex ore 6, de constitutionibus n.° 9. Philippus Decius in cap. cum parati de appellationibus n.° 3. et 4. Cuius rei ratio est, quod natura causae criminalis requirit presentiam corporalem rei accusati, ut judex ex vultu, et linguae titubat, vel rubere veritatem vel in judicibus investigare possit, l. de minoris 10 § tormenta ff. de quaestionibus, item quod non per se [illegible] procuratorem, qui circa tractatum [illegible] Dominus, qui in hoc munere adhibet. l. 1. C. de sententiis interlocutionibus junctaque [illegible] § 1. de procuratoribus tt. 6. ubi litem ac proinde quilibet reus accusatus mitteret procuratorem in causa criminali, ut effugeret supplicium, ac potius esset melioris conditionis contumax quam obediens, ... in cap. ... 9. de dolo et contumacia, cap. ... 18. de ... et Dignitatibus tt. 8. et hoc itaque obtinet in publicis delictis, de quibus ... depublicis judiciis, si de privatis, de quibus ... de privatis delictis, dummodo pro delicto fuerat ... corpus afflictiva, et relegatio maior, si vero pena delicti fuerit civilis admittendus est procurator, quia executio condemnationis potest fieri contra absentem etiam ... procuratorem. Ita explicant Bartolus, Iason, et alii antiquiores in d. § ad crimen ... penultima ff. de publicis judiciis, Abbas Panormitanus, Berous et Socinus in cap. veniens 15. de accusationibus, ... Somes de delictis cap. 4. n.° 13. Barbarinus ...

Quod ulterius intelligendum de ... diversa alia difficultas in capitulo 5. de procuratoribus, et cap. veniens 15. de accusationibus, aliaque plura ... in quibus ... in causis criminalibus procuratorem admitti posse, id est, quando civiliter intentantur, et pena fuerit civilis, ut prediximus, et ... docent ... praeterea in ... judiciis. =

n.° 27.

Adeo vero quod procurator in causis criminalibus criminaliter intentatis non est admittendus, ut si de facto admittatur, et judicibus prosequatur, processus ita factus ipso jure nullus sit, quod probatur ex § ad crimen ff. ... frustra procurator intervenerit, quae verba denotant nullitatem actus. probatur etiam ex cap. veniens de accusationibus, et ultimum ex eo, quod presentia partis in criminalibus requiritur pro formalitate ad investigandam veritatem ... § ad haec, et in § tormenta ... actus sine forma est nullus cap. ... 22. de rescriptis. l. prolata 4. C. de sententiis interlocutionibus, quod processus factus cum procuratore in criminalibus erit nullus. Facit etiam textus in cap. licet in criminalibus 5. § 3. tt. in criminalibus causis, nec accusator nisi per se aliquem accusare potest, nec accusatus per alliam personam se defendere permittitur, ex quibus manifeste colligitur ... prohibitio, itaut quod contra ... factum nullus sit; denique facit textus in l. 6. tt. 1. p. 7. ... non per personero, ... quos tradit idem Greg. Lopez, tradunt etiam supradicti authores et praeter los Antonius de Pichardo in § 1. ... de ... quos ... n.° 27. =

n.° 28.

Adversus hanc doctrinam triplex adest objectio. I. nascitur ex textu in l. filius familias 8. § veterani 2. de procuratoribus, et alia ita demum 13. C. eodem tt. ex quibus probatur processus factus cum procuratore ... valet ... si ... sed huic objectioni ... respondetur ... cum ... procuratore, quae ... nullitas, ... retrahatur, quod si factum ... procuratore ... non ... examinari ... , sed solum ... ipso delinquente ... processum ... = 2. nascitur ex capit. de exceptionibus tt. 6. ubi valet processus factus cum actore excommunicato, qui in judicio ... cap. intelleximus de judiciis, cap. exceptionis 12 de exceptionibus, dicendum est ... Validus ... quoniam cum de facto fuerit admissus excommunicatus in judicio, et ... periculum ... restauretur ... ne ... acta talis judicibus ... cap. finali de dolo et contumacia ... in cap. ... et validis ... excommunicatus a judicio repellatur ... periculum, quae de facto celebrata ... actus debet valere ut prediximus. = Sit postrema difficultas, ... regula, quae docet plurima prohibita, quae si de facto fiant valent, ... de quadam ... dictum ... quod ... in causis criminalibus criminaliter intentatis ... de facto ... debent ... ut diximus. Breviter tamen haec difficultas solvitur, si animadvertamus ... regula habet ... nullitas ... ipsa ... prohibitione ... formalitate ... requiritur ... ut est ... de

Liquentis

Et tamen ut diximus in casibus criminalibus justis, et recte debeat procurator specialiter intervenire delinquentis, recte dictum est aliter factum
esse procuratorem adesse nullum esse, cum expresse dicitur causis criminalibus procuratores admitti in jure, excepto bonis publicis, et per in[...]
nam a contrario ad l. finali C. de procuratoribus docent Antonius Gomez, Carleval ubi supra, et Julius Clarus § fin. q. 82 n° 24 =

n° 29.

Superius resolutio de procuratore admittendo in causis criminalibus limitatur quando
primo ut admittatur in excusatore, cujus officium est defendere innocentiam absentis, et allegare causas absentis l. liberto § 1. [...]
C. de negotiis gestis, l. inter 10. l. penultima § ad crimen ff. de publicis judiciis, l. 12 titulo 5 partita 3, cap. veritatis, et cap. [...]
et contumacia, et cap. veniens de accusationibus, quippe ad excusatorem expectat excusationes absentis, qui facti sit coram judice
necessario allegare, veluti quod absens sit infirmus, vel tempestate impeditus aut ex alia probabili causa absens, l. 2. § si quis in judicio
sistendi causa, [...] exceptiones juris allegare non potest excusator, veluti quod absens sit exemptus a jurisdictione, vel [...]
excommunicatus, quia id non est excusare, sed defendere absentem, ita concludit Gregorius Lopez in dicta l. 12 glossa 7, cum sibi sequentibus asserens
quod excusatores absentis admitti solere. Et sequitur hunc excusatorem solum teneri jurare se non excusare absentem maliciose
satis dare de comparendo post finitam absentiae causam, vel de judicato solvendo, ut docuit Gregorius Lopez ubi supra. Similiter
ut si judex non admissa legitima causa excusationis ulterius procedat, irritum et nullum est, contra extravagantem ad repri-
mendam C. quomodo in crimine lesae majestatis [...] quam tradit Gregorius Lopez ubi supra, et Bartolus in [...] § ad [...] n° 16 [...]

n° 30.

Similiter cessat superior doctrina quando defensor innocentiae absentis in casibus [...]
tibus nominatur, quippe ad ejus innocentiam probandam quemvis de populo admitti debere certum est, probantque textus in l. servum §§ [...]
ce ff. de procuratoribus, l. si non defendatur 19 ff. de poenis, l. non tantum ff. de appellationibus. Cujus defensoris utilitas in illo [...]
ut tantum prodesse posset, nunquam nocere, sicut procurator virtute mandati l. cum mandato ff. de minoribus, cap. penult. de procuratoribus
nec tanquam procurator admittebatur, sed tanquam defensor, ideoque nec sententia poterat formari in illius poena contra [...] l. [...]
partita 3 nec de judicato solvendo satis dare tenetur, ne fortasse absens poenam defensoris effugiat per contumaciam, et fiat melioris
conditionis, quam obediens contra textum in cap. [...] de dolo et contumacia, hanc [...] tanquam veriorem, ac receptiorem tradit Bartolus, et [...]
de Castro in dicta l. servum § publice personis, Jason, et Decius in l. 2 C. qui [...] facere possunt n° 22 Gregorius Lopez in dicta l. 12 glossa [...]
Ladrius ubi supra d. cap. 20, quae licet in jure sit vera, tamen in regno cessat, lo namque inspecto severius proceditur contra absentes
delinquentes l. 3 titulo 10 lib. 4 recopilationis, adeo ut negatur ad defendendam innocentiam filii absentis pater admittatur
[...] et in aliis quae casibus judex ex officio de innocentia absentis inquirat, ut notat ex dicta l. 3 et tradit Azebedo n° 5 [...]
[...] ut malorum audacia coerceatur acerbitate supplicii [...] cap. cum justa 33 q. 3 § 4 docet Gregorius Lopez ubi supra

n° 31.

Deinde quilibet ex litigantibus ut personaliter in judicio compareat citari potest
ad jurandum de veritate dicenda vocatur, quod juramentum per procuratorem praestari non potest, quia lex non talis juramenti, ut tam actor quam reus
invicem interrogationibus respondeant positionibus quapropter quoque advenit ad indagandam veritatem contra [...] in cap. pastoralis [...]
judiciis, et ea ratione, quia persona principalis, id est dominus, melius veritatem litis agnoscet, quam procurator ipse, ut tradit [...] gl. [...] penult.
[...] dicenda, quam sequitur Sonceus [...] n° 41. Archidiaconus [...] finali. quod juramentum licet olim in spiritualibus praestari [...] praestari
tamen hodie et aliud id est de calumnia praestari potest, cap. 1 in fine de jurando calumniae hoc titulo 6 = Nec obstat textus in cap.
de confessis hoc titulo 6, ubi proponitur non solum reum, verum etiam [...] curatorem posse compelli ad juramentum veritatis remittendum, adeo ut si [...]
rationabili causa quid tale facere recusaret pro confesso habeatur, nam debet intelligi casus quo procurator specialem mandatum ad id ha-
buerit, tunc quod veritatem dicenda in animam [...] domini absentis jurare compelli poterit, si judici expedire visum fuerit, cap. 2 § praeterea
et § finali de testibus titulo 6, l. 2 titulo 7 lib. 4 recopilationis, tradit Azebedus ibidem, Abbas Panormitanus, Decius, et [...]
in cap. pastoralis 24 de judiciis n° 2 =

n. 32.

Amplius ad utilitatem trahi potest l. [...] specialiter in judice delegato si jura-
mentum calumniae sit praestandum, vel ab actore vel a reo, ut colligitur ex notatis [...] vel pro jurato calumniae faciendo, [...] gl. [...] penult. [...]
quod ideo, quod juramentum de calumnia indicatur personalis, propterea quod jurare sit actus religionis a persona inseparabilis, cap. [...]
vitalis de jurejurando, docente Baldo in l. unica § [...] C. de caducis tollendis, et melius sciret dominus, quam alter ar[...]
dolore in tali judicio geratur. Et quamvis hoc inspecto juris rigore olim observaretur, tamen usus judiciorum, omnisque praxis admisit
ut procurator admittatur cum mandato speciali ad jurandum de calumnia, cap. ult. de jurando calumniae titulo 6, cap. [...] de testibus [...]
[...] facit etiam textus in cap. 1 § [...] de statu regularium [...] ubi [...] posse vassallum [...] fidelitatis praestare
per procuratorem habentem ad illud specialem mandatum, quod et de calumnia potest procurator jurare. Similiter facit textus in l. [...]
bona 13 § [...] 13 ff. de damno infecto, l. 2 § 3 C. de jurejurando propter calumniam dando. Nec tunc sufficit generale mandatum
fortasse ab aliquo acceptum ad omnia sua negotia gerenda, et in [...] libere, imo specie, et [...] adeo debet mandatum speciale, [...]

notu

nominatim specialiter ea, et lite, et alia omnia, plura quae alia circa hanc rem concernentia, quas libenter omittimus, docent, et prosequuntur Bartolus, Jason, et ceteri antiqui doctores in l. 2. C. de iureiurando propter calumniam dando, et in d. glo. Sialiend. Panormitanus, Felinus, et Barbatia in cap. in pertractandis de iurato calumniae. Praeter eos Donellus lib. 24. comment. cap. 8. ubi Oualdus litt. R. Cobb. in cap. quoniam frater de pactis in 6. l. § 5. n. 26. usque ad finem, et denique Andreas Valensis in paratitlis ad Decretales, ad tit. de iurato calumniae § 1. ubi quae expectant ad hoc de calumnia tractatus a cunctis plane proponit et examinans quae primo ad illud emittere teneantur, quo tempore, quo loco, in quibus in rebus consistat, et quae sit eius utilitas, et necessitas cuius termini ad hunc vera opposita sunt expectanda. ==

n.° 8.

Denique in nostro illa ponuntur verba, Velalias eius necessitas potest reorum exigentia qualiter praestari. in quibus demonstrat manifeste noster Innocentius 4. iudices delegatos de quo in nostro, qui alios litigantes per iniustitiam qualiter, id posse facere praeter casus relatos quod id cuius necessitas exigent, id est cogent, et expostulaverit qualis autem sint casus ipsi providentes iudex de in utroque iure, ut doctores iudicaverit, unicuique apparebunt ex temporis cursu et assidua actione iuris lectione. illud vero non omittam, ut iudices sive ordinarii, sive delegati posse litigantes facere coram te comparere personaliter quando praesentia cuiuslibet ex litigantibus ad effectum plenioris, et cognitionis causae inveniat, tunc quando in tanti locum iudicis praesentiam in mora et praecipitur, ita ut illa interveniente tales iussu nulla, ac frustratoria reddatur, argumento tit. in cap. pastoralis 24. de rescriptis traditur late pariter Ludovicus Gomesius in tract. n.° 85. penes quem et penes ceteros relatos in multis aliis casibus in quibus committitur iudicibus partes coram se trahere, proposita invenietur, nos vero contenti fuimus hic adnotasse pauca demum perfecte, ac plenius ea in Innocentii 4. Decretum explicata iam cedant in Dei omnipotentis laudem, Virginis matris gloriam, ac quae sanctorum caelestium venerationem

Necnon in vestram utilitatem.

[illegible]

[illegible]

[illegible] Cathedral [illegible]

[illegible]

[illegible]

Solemnis expositio ad textum in cap. Mulieres 2° de judiciis libro 6. die 5. januarij 1652.

Venit iam, nobilissimi auditores, illustranda, ac explicanda nobilis, et elegans Bonifacij Octaui Pontificis Maximi quaedam decisio, quae refertur in cap. mulieres 2° de judiciis lib. 6. ubi proponitur mulieres, quas vagari non conuenit nec virorum coetibus immisceri, non posse inuitas personaliter in judicium ad testimonium dicendum, ob aliamue causam trahi per iudices, siue sint legati, siue delegati, siue ordinarij, dum tamen [illegible] aliqua causa id non expressa exigit, non expostulet, immo si necesse fuerit earum testimonium, ut elucescat veritas, judex ad las personaliter accedat, quod si non decet iudicem ire, quia est episcopus, aliaue simili causa, vel non potest, quia infirmus est, uel aliter impeditus, mittere debet expensis ipsius illas producentis tabellionem, vel alias personas idoneas, qui dicta ab illis accipiant, et assumant; verum si judex aut litigans fingat causas, ut ex fraude personaliter [illegible], ipso facto erit excomunicatus. = Tandem statuitur feminas religiosas, quae sub clausura debent morari, non posse extra suum monasterium ad judicium vocari, vel ex quauis causa trahi, quamtumuis ipsae velint. Et ideo venoniae ut si aliquid [illegible] de facto fiat, omne ipso iure irritum et inane sit. Ex quo decreto aperte depromitur nouiter Bonifacium Octauum duo dissimilia statuisse, utrumque ut expedit explicauimus, si sigillatim unum quodque attigerimus. Quod ut hoc eueniat duplex est assertio proponenda. =

n° 2. Sit prima 2°. [illegible] juribus ab antiquioribus [illegible] sic deprompta. Mulieres personaliter ad iudicium inuitas pro testimonio dicendo, vel alterius rei causa non sunt trahendae nisi ex causa id exposcente in [illegible] ad fuerit. Haec decisio quae qualiter qualiter denouo statuitur, antea etiam erat obseruabatur, et videtur probari eatenus in cap. mulieres 6. in prima dess. excomicationis, l. feminis 2°. cum vulgatis ff. de [illegible] l. 2. C. de his, qui veniam aetatis impetrarunt, l. maritus 12. C. de procuratoribus l. 2. § sinautem C. de iurando pro calumnia dando, l. finali C. de receptis arbitris. l. 1. C. de off. diuersorum judicum, de iure regio probant [illegible] l. 3. tit. 7. p. 3a. l. 22. tit. 11. eadem p. 3. l. 62. tauri. exornant, et illustrant hanc [illegible] Dominicus Geminianus, Franciscus Joannes Andreas in nulli que alij inter ad [illegible] repetentes, praeter hos Abbas Panormitanus Imola, et Felinus in cap. 3. de testibus, et attestationibus, idem Felinus in cap. siqui testium 8. et dem. [illegible] de testibus n° 3. Baldus et alij antiquiores in d. l. finali C. de curatoribus n° 5. Cobb. in cap. quamuis pactum 2. p. in initio n° 25. de pactis tit. 6. Tiraquellus in legibus connubialibus in l. 10. n° 21. cum pluribus sequentibus. Joannes Garcia de nobilit. glossa 48. § 2. Robertus lib. 2. rerum iudicatarum cap. 13. Rebuffus tract. Gallie tt. de [illegible] art. 15. glossa 1a n° 6. Petrus Barbosa in l. diuo 14. § eleganter ff. soluto matrimonio n° 10. Greg. Lopez in d. l. 3. tit. 7. p. 3. in primo, Antonius Gomez in d. l. 62. tauri, in nulli que alij tam ex antiquioribus, quam ex recentioribus, quos praedicti authores sequuntur, et referunt, inter quos praecipuus Augustinus Barbosa collectaneis ad hunc tex. 2° [illegible] cum aliquibus [illegible]. =

n° 3. Verum in limine se se offert dubitandi ratio aduersus nostram decisionem, nam cum judicis potestas adeo magna est, ut possint compellere quemlibet de populo, siue sit litigans, siue quilibet alter ut pro ueritate dicenda, aut pro iurato faciendo coram ipso personaliter compareat, cap. 1° hoc eodem tt. de judiciis tit. 6. [illegible] vel nisi pro ueritate dicenda, aut pro iurato calumniae faciendo, vel alia quaeuis necessitas [illegible] coram illo exegerit per [illegible] liter presentari, quod cum absolute hoc judicibus conceditur non videtur adeo ratio cur illis prohibeatur ut non possint inuitas feminas in judicium ad dictum suum proferendum trahere. Praecipue cum judicium etiam in inuitum, et renitentem detur cap. in tele [illegible] 77. de [illegible] l. inter stipulantem 83. § 1. ff. de V. O. iudicium autem etiam in inuitum redditur [illegible] non recte in nostro tex. statuitur mulieres inuitas pro testimonio dicendo ad judicium trahi non posse. =

n° 4. Secundo quatenus ex nostro tex. colligitur mulieres posse, cum voluerint sponte liter pro testimonio ferendo ad judices accedere, hoc que ex sua pendere voluntate obstat valde sequens consideratio, hoc priuilegium quod mulieribus conceditur id est, ut inuitae ad judicium non trahantur concessum est in fauorem publicae honestatis, ut obstat ex d. l. maritus C. de procuratoribus, et ex d. l. finali C. de receptis arbitris, facit eleganter tex. in cap. de [illegible] 21. [illegible] q. 2. Ideo publicum priuilegium quod alicui statui concessum priuata voluntate auferri non potest, tex. in l. ius publicum 38. cum vulgatis ff. de pactis, cap. si diligenti 12. de foro competenti, ubi [illegible] pluribus alijs juribus quae agunt [illegible] cap. si diligenti ubi pactio priuatorum, et quae tradit Joannes de Barbosa in d. cap. si diligenti n° 6. Sanchez lib. 3 [illegible] cap. 8. Suarez aduersus [illegible] Angliae lib. 4. cap. 31. per totum. quod [illegible] pendeat a mulieribus secularibus renuntiatio huius priuilegij, quia non priuatum, sed potius publicum sit, id est sexui muliebri concessum. =

n° 5. Denique quatenus in nostro tex. statuitur judices debere personaliter ad domum mulierum accedere pro earum testimonio, ac dicto accipiendo obstant tex. in cap. statutum 11. § pro ferendo de rescriptis lib. 6. cap. statutum 3. de fideiussoribus, et auth. apud eloquentissimum C. de fide instrumentorum, ex quibus iuribus aperte depromitur iudicem non debere ire ad examinandos testes, sed potius mittere debere receptores tabelliones, aliamue personam

Aut

[illegible] quilibet ad testimonium [illegible] judici, si aliter veritas [illegible] nequeat, potius [illegible] [illegible] 4. 05. de testibus [illegible]

[illegible] vagent, aut virorum [illegible] coetibus [illegible]

aut eos ad se trahere [illegible] absolute hoc in dictis iuribus statuatur nulla videtur ratio adeo cur in nostris [illegible] iudicibus [illegible] ut quando testimonium feminis sit dicturum, ad eorum domus pergant. =

n.º 6. His dubitationibus non obstantibus dicendum est verissimam esse nostram assertionem, videlicet mulieres personaliter ad iudicem pro testimonio dicendo, vel alterius rei causa trahendas non esse, nisi aliqua ex causa [illegible] tulet. Cuius assertionis decisio utique [illegible] ut demonstrare conabimur, utque in terminis et [illegible]. Vere ergo facile explanetur [illegible] valde utilia, et maxime necessaria animadvertenda sunt, in primis statuimus plurima privilegia in [illegible] sexum muliebrem [illegible] inter quae illud unum est, videlicet quod quamvis homines possint personaliter ex causa citari tam in criminalibus quam in civilibus negotiis, ex [illegible] in capitulo hoc in [illegible] ubi ipsi idem a nobis traditis, tamen feminae vitiis ob publicae honestatis pudorem non [illegible] aut personaliter trahi non debent, tradit eleganter praeter superius relatos Ludovicus Gomecius in elegantiis [illegible] quod ad [illegible] fecit n.º 10. cum pluribus sequentibus. = Preterea ob laudem [illegible] aliud privilegium concessum est mulieribus [illegible] non possint in carcerem civili, de quo in l. 1.ª [illegible] in authentica hodie C. de off. diversorum iudicum, authentica hodie C. de custodia reorum, authentica [illegible] novo iudici [illegible] authentica [illegible] nulli iudicum [illegible] collatione [illegible] l. 62 Tauri, [illegible] Nulla mulier por ninguna deuda que no proceda de delicto pueda ser presa ni traida a la carcel, aut ibidem detineri, nisi notoriae sit malae vitae tradunt eleganter Covarrubias [illegible] delictis [illegible] 24. n.º 11. Matienzo in l. [illegible] tit. [illegible] recopilationis [illegible] Duenas regula 312. pluresque alii quos ipse refert, necnon Antonius Gomez in explicatione l. 62 Tauri n.º 2. cum sequentibus quod privilegium cessat, si mulier fuerit meretrix, aut luxuriose vivat, quippe tunc carcerari bene potest argumento [illegible] in authentica de restitutionibus, [illegible] pant. in undecimo mense [illegible] finali [illegible] 4. [illegible] tur solum favendo castitati [illegible] luxuriae, luxuriansque indigna privilegio legali; tradunt Covarrubias, Julius, Castillo, et alii practici in d. l. 62 Tauri, et praeter eos Cobb. de sponsalibus [illegible] cap. 8. § 11. in fine pluresque alii quos refert et sequitur Antonius Gomez in d. l. 62 Tauri n.º 2. in fine. = Et hoc est intelligendum quod mulier fuerit soluta, secus si coniugata sit, quia tunc non potest incarcerari licet luxuriose vivat argumento [illegible] in l. uxor § 1. ff. ad [illegible] Iuliam de adulteriis, tradunt ita [illegible] authores, praecipue Antonius Gomez in d. l. 62 Tauri n.º 2. ubi hanc rem late exequitur, et de more erudite pertractat. =

n.º 7. Haec plurimaque alia privilegia mulieribus [illegible] concessa inveniuntur, [illegible] noster [illegible] mos. Verum omittere non possumus certum esse multis [illegible] viduis [illegible] considerabilibus statui concedi inter quae illud unum, ut licet cognitio causarum expectet in prima instantia ad iudices ordinarios ex [illegible] vulgatis de off. iudicis ordinarii [illegible] litigantes [illegible] in ea trahere reos possint ad supremos curias auditores, l. unica C. quando Imperator inter pupillos, viduas, et [illegible] regum proprium munus et officium peregrinis, pupillis, et viduis, aliisque miserabilibus personis, qui facile potentioribus opprimuntur auxilium praebere, [illegible] cap. administratores 26. [illegible] l. 41. tit. 28. p. 3. l. [illegible] tit. [illegible] l. 21. tit. 5. lib. 2. recopilationis [illegible] tradunt Cobb. practicarum [illegible] cap. 5. n.º 3. [illegible] moral. tit. 11. cap. 6. [illegible] et alii plures quos refert et sequitur Cenedo in collectaneis ad decretales collectanea 5 ad [illegible] cap. [illegible] 27. [illegible] et hoc privilegium conceditur etiam mulieri [illegible] habenti in utilis mariti, ut [illegible] hostibus, quae [illegible] habere maritum [illegible] habere argumento [illegible] cap. 1. de [illegible], cap. 2. [illegible] de translatione [illegible] 2. in l. finali C. [illegible] docet et sequitur late Cobb. pract. [illegible] cap. 6. n.º 1. et cap. 7. n.º 2 [illegible] ubi resolvit hoc privilegium concedi mulieri [illegible], quamvis nunquam [illegible] viduam appellaverint mulierem caelibem, viduam, [illegible] catio est impropria, et non admittenda ubi agimus de privilegio concedendo, [illegible] ut tradit Cobb. ubi supra. =

n.º 8. Habet etiam vidua aliud privilegium, ut videlicet si reus fuerint [illegible] non privilegiatus in proprio domicilio, ut fieri solet, et debet [illegible] in cap. [illegible] generale de foro competenti cum vulgatis [illegible] declinare iurisdictionem ordinarii sui, et petere causam [illegible] ad curiam regis, ut docet [illegible] in d. l. unica [illegible] inter alios interpretibus recepta, quod privilegium tam viduis conceditur [illegible] aliis miserabilibus personis in praxi [illegible] quamvis alia [illegible] et privilegio fungi soleant [illegible] in d. l. unica C. quando Imperator [illegible] cap. 1. de restitutione [illegible] et [illegible] tradit Cobb. ubi supra. Verum non viduae [illegible] uti hoc privilegio contra aliam viduam, vel miserabilem personam quia [illegible] privilegiatus [illegible] gaudeat suo privilegio contra alium pariter privilegiatum in genere, [illegible] in l. [illegible] quaeritur cum sequentibus ff. de minoribus, l. si [illegible] ff. ex quibus causis maiores, l. [illegible] ff. de excusationibus [illegible] privilegiatus in actu de quo tractatur non gaudet suo privilegio contra alium pariter [illegible] privilegiatum cap. [illegible] de [illegible] dignitatibus, [illegible] viduae non debent uti privilegio trahendi reum ad curiam Principis contra aliam viduam, vel [illegible] personam, quae [illegible] actu privilegium habet, ne invitus extrahatur a proprio foro, maxime cum ubi duo privilegia [illegible] aequalia [illegible] debeat, neutrum debeat praeferri [illegible], ita resolvunt Bartolus in authentica quas actiones C. de [illegible] Mitanus, et Felinus in cap. in praesentia de probationibus n.º 29. Cobb. [illegible] cap. 2 [illegible] § 12. n.º 4 qui alios plures [illegible] hanc rem pertractantes. = Denique viduis conceditur ut non possint [illegible] extrahi a proprio domicilio ad curiam regis [illegible] cumque personis etiam privilegiatis [illegible] ex [illegible] in d. l. unica in [illegible] C. quando Imperator, et ex d. l. 41. tit. 18 [illegible] 3. [illegible] [illegible] Cobb. d. cap. 7. n.º 2. quod quidem privilegium in regio observari late et [illegible] practici [illegible] quos videri potest, nos enim hic brevitate qua oportet, [illegible] intelligentia contenti sumus.

n.º 9.

Rursus etiam [illegible] feminas [illegible] aliter [illegible] ad testimonium dicendum careant, imo hoc casu dependere arbitrio examinandi e quibus in causis illis habeant [illegible] capacitatem ad testimonium dicendum, tam in civilibus quam in criminalibus causis, quod ut [illegible] explicemus [illegible] ad testimonium dicendo prohibitorium esse, ita ut omnes illi quibus prohibitum non fuerit, ut testimonium perhibeant, illud emittere possint ut [illegible] l. 1. § [illegible] ff. de testibus. Cuius in specie [illegible] pro certo [illegible] quibus hoc illis in genere prohibetur, [illegible], ac in utraque solemnitas observetur. Verum [illegible] cap. quoniam J. [illegible] de testibus, c. mulierem 33. q. 5. [illegible] mulierem constat subiectam dominio viri esse et nullam authoritatem habere, nec docere enim potest, nec testis esse, nec fidem dare, nec iudicare, quanto magis [illegible] imperare. [illegible] nec testis esse, [illegible] in causis criminalibus criminaliter intentatis, in quibus prohibetur illis ut testimonium perhibeant, quia Pontifex [illegible] testimonium varium ac mutabile indicavit, [illegible] de [illegible] tradit [illegible] de testibus § [illegible] possit esse testis. [illegible] cap. quoniam J. de testibus n.º 2. [illegible] quae antiquiores [illegible] repetentes, [illegible] eleganter hanc rem [illegible] de testibus q. 59 [illegible] casu 1.º n.º 2.º ubi plures alios hanc doctrinam illustrantes refert. =

n.º 10

Iure autem civili [illegible] mulieribus [illegible] ut in civilibus, et in criminalibus causis possint suum testimonium dicere, probatur [illegible] l. 8. § lege Iulia ff. de testibus, ubi in accusatione legis Iuliae de vi publica repellitur a testificando mulier [illegible] quaestum faciens, ex quo apparet quod [illegible] infamis [illegible] repellitur, [illegible] si repelleretur [illegible] oporteret [illegible] haberet illius qualitatis infamiae, probaturque [illegible] l. [illegible] 18. ff. de testibus; tradunt [illegible] Baldus, et ceteri antiquiores [illegible] iuribus, [illegible] n.º 17. [illegible] Speculator [illegible] melius [illegible] Canonici ac Caesarei afferens et approbans [illegible] qui [illegible] aliis [illegible] l. 8. tit. 8. [illegible] 2. [illegible] = Nec generalis hanc Caesaream, ac [illegible] praxim [illegible] Papiniani [illegible] responsis [illegible] quaestionibus ff. ad l. Iuliam Maiestatis [illegible] quaestionibus [illegible] maiestatis [illegible] mulieres audiuntur, ex quibus probari videtur tantum in illo crimine posse dicere testimonium, [illegible] intelligi de muliere infami, ut [illegible] demonstrat, quia [illegible] scilicet infames in specie [illegible] quaestione [illegible] possint testimonium suum dicere nec in civilibus, nec in criminalibus [illegible] in crimine laesae maiestatis [illegible] possint, [illegible] tantum homines, [illegible] mulieres [illegible] delicti atrocitatem, [illegible] entingant, [illegible] ad heredes transeat. l. quisquis 4. C. ad l. Iuliam maiestatis. [illegible] Papiniani responsis Bartolus [illegible] Cuiacius in [illegible] responsis Papiniani [illegible] ad [illegible] quaestionibus ff. ad l. Iuliam maiestatis. =

n.º 11.

Haec generalis regula [illegible] patitur limitationem. Sit [illegible] regulariter mulier testificare [illegible] l. qui testamento, § [illegible] ff. qui testamenta facere possunt; [illegible] l. 1. 9. tit. 10 [illegible] l. 17. tit. 16 p.ª 3.ª [illegible] in nullis [illegible] tit. [illegible] de [illegible] ob [illegible] imbecillitatem, et inconstantiam, [illegible] generalis [illegible] admitteretur, feminis nec in [illegible] nec in aliis causis [illegible] interponere testimonium, quod falsum est ex [illegible] omissis [illegible] aliis rationibus tam ab antiquioribus, quam a recentioribus adductis, et animadverso [illegible] ad titulum ff. qui testamenta facere possunt, [illegible] de testibus in testamento idoneis [illegible] Dicimus [illegible] in testamentis feminas testimonium dicere [illegible] quia actus testandi est solemnitatis, ac caeremoniarum plenus, [illegible] prudentissimos, et sapientissimos viros [illegible] teste Iustiniano Imperatore in l. finali. C. de testamento militis, oportet namque [illegible] in testamentis adhibendos perspicaces, et prudentes esse ut omnibus fraudibus occurratur, l. finali C. de fideicommissis, l. hac consultissima C. qui testamenta facere possunt, alias namque [illegible] si quid [illegible] cogerentur in publicum prodire [illegible] expressam prohibitionem [illegible] plerumque testamenta publice coram iudice aperiantur, l. 2. C. quemadmodum testamenta aperiantur l. 2. tit. 2. [illegible] tradunt eleganter hanc [illegible] pluraque alia [illegible] hanc rem adducentes [illegible] ubi [illegible] tit. 3. [illegible] in speculo testamentorum [illegible] 4. n.º 22 Richardus [illegible] mulier. n.º 11. et aliquibus sequentibus. =

n.º 12.

Verum hoc cessat in codicillis, in quibus propterea quod minor requiritur solemnitas, possunt feminae testimonium dicere, [illegible] tradunt Accursius [illegible] l. qui testamento [illegible] Bartolus, Baldus, et alii antiquiores [illegible], aliique plures ex practicis, et theoricis, quos refert, et sequitur Matienço in l. 2. tit. 4. lib. 5. recopilationis [illegible] Similiter et in testamento militari, inter liberos, [illegible] l. hac consultissima § ex imperfecto C. de testamentis [illegible] cap. [illegible] n.º 10. et [illegible] relatis n. [illegible] tradit eleganter [illegible] ubi plures alios [illegible] referet in nullis [illegible] possunt [illegible] statuens, et animadvertens [illegible] certum et indubitabile esse monachos in quibus [illegible] testamentum [illegible] posse adhibere [illegible] testimonium [illegible] superioris [illegible] licentia [illegible] refert [illegible] [illegible] authoritatem [illegible] =

[Margin notes:] [illegible] ... Speculator [illegible] § 1.º col. 16 [illegible] mulier. = ... [illegible] n.º 10 mulier [illegible] ff. qui testamenta facere possunt [illegible] l. 17. tit. 16. p.ª 3.ª ... [illegible] testamento. ... testes autem [illegible] testamentis ordinariis. ... [illegible] huius rei [illegible] magnam [illegible] difficultatem. ... finali C. de codicillis. ... [illegible]

n.° 13.

Limitatur etiam superior generalis dispositio in casu feudali, in quibus testimonium dicere denegatur iure... quibus testes necessarii ad novam investituram [illegible] dandam. [illegible] aut beneficii investiturae, quae fit a Domino successori vel [illegible] successoris et extranei recipiunt ad testimonium [illegible] feminas, [illegible] procedit in testimonio quod requirit scriptura privata [illegible] ... Baldus in l. scripturas. C. qui potiores in pignore habeantur, tradit elegantius Carolus [illegible] ... quoniam [illegible] ubi [illegible] exceptis limitationibus statuit [illegible] ... illis feminis adhibendam, ita ut si [illegible] duo sint masculi et alia duae feminae, praevalent masculi [illegible] ... Baldi in l. 1. ff. de [illegible]; V. quod [illegible] masculus et feminae [illegible] ... [illegible] extranei nominando [illegible] ... ex voluntate testatoris habenti. =

n.° 14.

Huic positivis proponendae venit iam assertionis decisiva ratio, cur videlicet statuat mulieres personaliter ad iudicium testium dicendo, vel alterius rei causa venire, trahi non debere, quod [illegible] mulieres vagari [illegible], nec virorum coetibus immisceri, ut noster Pax [illegible] ... in primis illis postulare denegatur, neque publicis [illegible] alienis causis se immisceant. l. 1. §. sexum ff. de postulando, ubi illud subiungitur originem huius rei introductam esse a Calphurnia improbissima femina, quae inverecunde [illegible] tribunalia exercendo ad muliebris calumniae notissimum exemplum causam dedit, ut eorum crimine improbae feminarum [illegible] nomen obiiceretur. Similiter etiam maritis praecipitur ut res uxoris pertractent, ne illae in publicum [illegible] procuratoribus, neque feminis [illegible] ... matrimonialis pudoris irreverenter [illegible] ... virorum, vel iudicibus [illegible] ... in eorum custodia mulieres a viris separandas esse [illegible] periculosam imitationem, statuit Imperator Constantinus in l. quoniam. C. de custodia reorum. Faciunt etiam huius rei confirmationem tria in l. [illegible] C. de [illegible] ... mulieres se committere [illegible] ... ex variis Romanorum oraculis, et authorum [illegible] ... [illegible] rationes exornandi [illegible] omitto, ut ad alia progrediar, qui volunt [illegible] ... Tiraquellus in leg. [illegible] ... elegantius [illegible].

n.° 15.

Verumtamen omittere non possumus [illegible] decreta [illegible] in primis in cap. mulieres de [illegible], cap. quamvis de sententia excommunicationis, ubi statuit mulieres, quae [illegible] ... [illegible] diabolo posse absolvi, nec compelli, ut adeant Summum Pontificem, sicut in viris [illegible] ... Hostiensis, nonnulli [illegible] antiquiores [illegible] ... periculosum [illegible] mulieres [illegible] virorum coetibus immiscere. [illegible] Innocentius [illegible] decretis relatus in cap. [illegible] de poenitentiis et remissionibus, ubi statuit abbatissas [illegible] monales suas benedicere, confessiones audire, aut publice praedicare. Facit denique [illegible] ... mulier quamvis docta et sancta viros in conventu docere non praesumat, ob quae omnia, plura quae alia decreta noster Bonifacius [illegible] ... habens pudoris verecundiam muliebris [illegible] statuit non posse mulieres ad iudicium [illegible] trahi [illegible] ... causa, aut pro cuiuslibet alterius rei causa. =

n.° 16.

Nec his quidquam obstant dubitandi rationes adversus [illegible] adductae. [illegible] deducta ex cap. [illegible] de iudiciis, [illegible] ... dicendum est illis cessare, et tantum locum habere in hominibus licet [illegible] ... ad iudicium venire [illegible] ... calumniae [illegible] ... debet cessare, ac limitari in mulieribus [illegible] honestas, [illegible] ... plura quae alia, quae licet in hominibus generaliter procedant, tamen in feminis cessant [illegible] honestatis [illegible] ... [illegible] apparebunt. =

n.° 17.

Non obstat 2.° quod dicebamus mulieres [illegible] volentes non posse ad iudicium [illegible] ... propterea quod [illegible] ... omni muliebri [illegible] ... renuntiari [illegible] ... publice [illegible] ... renuntiantur, [illegible] ... dicendum quod licet [illegible] mulieres huic privilegio non possint renuntiare, [illegible] ... ad iudicium personaliter venire, ex quo privilegium generaliter [illegible] ... mulieris [illegible] violatio [illegible] ... tradit Suarius [illegible] ... [illegible] ... Coll. in d. cap. quamvis [illegible] ... faciunt tria in l. quod nomine mariti ff. [illegible] ... ubi [illegible] tacite [illegible] renuntiare illi privilegio quod expresse [illegible] ... [illegible] cap. 1. [illegible] ... calumniae [illegible] ... ubi remissio [illegible] tacite iuramenti calumniae, cum expresse [illegible] licet [illegible] ... Denique facit illud quod [illegible] Coll. pract. [illegible] ... Vidua, vel minor apud iudicem inferiorem [illegible] ... omisso tacite privilegio trahendi causam ad curiam Principis [illegible] ... Imperator [illegible]

n posit beneficij restitutionem, si minor sit, cap. audeare ab inferiore ad Curiam, quae tacite renuntiavit suo privilegio pro praeteritis damnis non a grave ordinarij iurisdictionis favor militat. =

N.º 18.

Adversus quam solutionem ex diametro obstare videtur difficile Innocentij 3.^i decretum relatum in cap. cum contingat 28. de iure iurando ... probatur mulierem posse renuntiare suo privilegio Cod. ... si adulterium, l. 1 ... solut ... recte dictum est mulieres tacite tantum ... privilegijs renunciare posse ... Praeterea ... omissis dicendum est privilegium ... principaliter pertinere ad privatam mulierum utilitatem ... secundario ... consequenter ... in cap. quamvis pactum de pactis in 6. ... studij ... de iustitia et iure ... Vero cum in quolibet actu debeat attendi quod principaliter agitur, l. 1 ... mulieribus ... dicto privilegio renuntiare, ita nulli ... explicant, quorum refert ... Seraphinus ... Cod. ... cap. quamvis pactum 2 p. § 1. n. 3. ... =

N.º 19.

Denique obstat potentius argumentum deductum ex nullis decisionibus quibus videbatur probari iudices debere vel ad domum ... testes adeant testimonium dicendum ... debere rectam ... transmittere, aut eos adsistrahere. nam dicendum est regulariter subditos tenendos esse ad testimonium dicendum Coram Iudice ... ad ... Cod. de test. ... hoc limitatur in mulieribus ... secundum ... iure ... domus, nec ... publice versentur, et eis cessat in Criminalibus cap. ... ut expensis ... testimonium ... ab eorum ... mulieres, aut cuiuslibet alterius ... testimonium ... ita ... antiqua ... l. quoniam liberi Cod. de testib. Menochius de arbitrarijs cent. 3. Casu 228. n.º 10 Cum sequentibus. =

N.º 20.

Obiiciuntur imprimis interpretandi, videre huc donandum elegans, ac difficile Gregorij Decretum relatum in cap. quoniam 3. de testibus, et attestationibus ... illis ... et secum mulieres cum quibus peregisse dicitur, seu alios, qui de causa scire aliquid censerit, huc festines adducere, quatenus Ecclesiastica districtione ... quidem possint quae vera sit aperiri ex quibus ... opere colligitur in causa ... tale ... Sacerdotis, ita procedendum, et ... inquisitione debere ... ut ... veri ... ex quibus infamia ... imputabatur, appareat ut veritas ... Coram Summo Pontifice, hoc ... huc festines adducere ... Sardinia defensor ut mulieres Coram ... adire ... ad dicendum testimonium apparere faciat ... =

Difficultatem hanc sensit ... interpretibus, ... causa ... Inter ... Ioannes Andreas ... dicebat ... consuetudine extravagantem, et particularem ordinationem ... ad ... Italiae, ... observaretur ... in ... Ad hoc ... solutio ... generale ... speciale ... specialiter aliquam ... debebat ... Panormitanus in d. cap. 3. illis ... breviter dicit ... concedere ... antiquo ... permittebat mulieribus ad iudices ... et ... ut ... testimonium dicere, ... procedit denuo, ... generaliter statuit ... mulieres ... publicum ... licet ... in alijs ... decisionibus ... qualiter ... tamen ... generaliter ... Calderinus ... decidit quia denuo fuit statutum ut inferendo testimonio mulieres ... venirent ad iudices, ad quos antea venire solebant tradit ita ... Panormitanus in d. cap. ... Barbosa in Collect. ad hunc textum ... =

N.º 21.

Adhuc quaedam remanet difficultas in d. cap. quoniam 3. ... admittit mulieres ... ad testimonium ... dicendum, ... fuisse socias, et participes illius Criminis, de quo erat infamatus ... Sacerdos, et certum ... socium Criminis ad testimonium dicendum minime admittendum esse, ut patet ex ... cap. Veniens 10. de testibus, et attestationibus, cap. ... de Confessis, cap. finali ... = Nec tam parvi momenti hic difficultas, ut plurimas solutiones ... antiquiores ... Dicebat ... Innocentius in d. cap. 3. ideo potuisse ... mulieres ... participes ... sceleris in ... testimonium dicere, quoniam ... erant emendatae, quasi ... immunes, ... essent, hoc ... alias ... solutiones refert Panormitanus in d. cap. 3. ... illis ... omissis amplectendam ... quam ... Abbas ... dicit quod ideo admitti potuisse ... mulieres ad testimonium dicendum, quoniam ... fuerunt admissae ad plenam probationem ... ad praesumptionem ... similitudinem ... admitti ... 4. 4. 3. ... quo casu ... fides ... non ... mirum ... cap. 3. admitti, ... licet ... hoc regulariter procedat, cessat ... in criminibus exceptis, et gravibus, ... quandoque plenam probationem faciunt ... et ... cap. per tuas ... 1. de simonia, cap. 1. de testibus ... in ... haeretices ... tradit Panormitanus ... finali, ... Menochius ... de arbitrarijs cent. 5. casu 478. ... Cornelius ... F. ... qui diligenter examinant ... socius Criminis ... =

N.º 22.

~~Denique~~ Secundo ex eadem ... Decisionibus ... venit alter a luce ... Gregorij authoritas ... 3. epist. 24. ... epistolarum relata in cap. Epiphanius 4. ... 9. 6. ubi ... de poena imponenda illi qui Crimen ... statuitur ... defensorem, ut mulieres illas, quas per ... Epiphanium cognovisse dicebatur, ... infamatus, et alios ... rei veritatem scirent, Coram Romano Pontifice venire faciat ut veritas pateat ... mulieres ... ad dicendum sui testimonium ... venire, ... hoc ... denegatur ... Hoc ... facile ... solvitur, si animadvertamus ... hunc ... in d. cap. quoniam 3. de testibus, ita

ad unum statuit, et in altero referat, ad ita V. pena que de[lict]o debet imponi deli[c]ta aliquam imputata [illegible] gratia [illegible] quod qui
Carmelis dicimus tex[t]u in d. cap. 8. quod ad Coactus antiqua procedere, ita similiter statuimus [illegible] [illegible] autem [illegible] [illegible]
nullibi scriptum reperimus. Difficile tamen videtur [illegible] [illegible] statuatur V. 2ore mulieres [illegible] dicere [illegible] [illegible]
solis las [illegible] laicos a tali testimonio omnimodo repulsas [illegible] cap. deccetero 14. [illegible] [illegible] [illegible] [illegible]
[illegible] mulieres aut solis ad sacerdotes, sed necessario ad Diaconatus [illegible] [illegible] nec Sacerdotes [illegible] [illegible]
[illegible] valent, tradit late, et eleganter [illegible] [illegible] Furio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
resolutiones cap. 10. [illegible] [illegible] facilius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] earundem sententias epiphanis aut [illegible], aut absolveret [illegible] [illegible] [illegible] [illegible]
[illegible], mulieres namque dicta ad [illegible] tantum in [illegible] [illegible] [illegible] [illegible] [illegible] antiquis [illegible] [illegible]
[illegible] gestarent afferimus [illegible] certis sic [illegible] recipi [illegible] [illegible] [illegible] docet Barb. [illegible] 3. [illegible]

n° 23.

Denique in [illegible], clarissimi auditores, [illegible] [illegible] [illegible] [illegible] [illegible] et collegarum [illegible] [illegible] [illegible] [illegible] ut [illegible] [illegible] illa omittimus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] praeter alios Tiraquellus in legibus [illegible] [illegible] 10. n° 29. [illegible] [illegible] Ludovicus [illegible] [illegible] [illegible] n° 20. [illegible] [illegible] quos refert, et sequitur Barbosa in Collect. ad [illegible] [illegible] n° 2. [illegible] quos hic [illegible] [illegible], quos nec nos ignoramus, [illegible] temporis [illegible] [illegible].

n° 24.

Haec de priori [illegible] dicta sufficiant, accedamus jam ad [illegible] prolaque explananda, [illegible] proponendo venit asserto foeminas religiosas extra suum monasterium extrahi non debent, nec ab personaliter ex quavis causa trahi, etiam si ad hoc voluntas earumdem accedat [illegible] [illegible] [illegible] cap. cum dilecta 22. de [illegible] cap. unico de statu regularium hoc in 6. cap. [illegible] 48. [illegible] de elect. eodem tit. [illegible] [illegible] de regul. cap. 5. tradunt et exornant hanc [illegible] [illegible] praeter antiquiores communiter ad [illegible] [illegible] Thomas Sanchez moralis lib. 6. cap. 15. n° 13. Pater Suarez de relig. tom. 4. lib. 1. cap. 8. n° 14. et 17. Azor 1. p. [illegible] moralis lib. 13. cap. 8. [illegible] Rodriguez tom. 1. q. regularium q. 44. art. 4. Bonacina tom. 1. q. 4. punct. 2. [illegible] Navarrus [illegible] de regularibus [illegible] n° 48 [illegible] sequentibus, novissime Josephus Sbalinus de clausura Sanctimonialium disquisit. 4. [illegible] [illegible] [illegible] sequentibus. Barb. de [illegible] allegat. 102. [illegible] plures que alii, quos refert, et sequitur post. Barbosa [illegible] [illegible] Collectaneis ad [illegible] [illegible] 6. Decretalium collect. 31.

n° 25.

Nec sine causa mulierculis demeat religiosis ingrediendis, [illegible] [illegible] [illegible] prohibet ut etiam si velint [illegible] [illegible] [illegible] testimonii dicendi gratia, aut qualibet alia causa, [illegible] [illegible] ad dicatas sibi Deo, Christo [illegible], [illegible] [illegible] ad [illegible] [illegible] seculare [illegible] [illegible] reverte[re] [illegible] [illegible] [illegible] dicatas [illegible] [illegible] ne forte [illegible] periculum [illegible] castitatis immineat, aut ex [illegible] [illegible] [illegible] aliqua infamia [illegible] [illegible] religioni [illegible], moniales namque a publicis, et mundanis aspectibus separatas Deo [illegible] [illegible] valebunt [illegible] post Bonifacius 8. dicebat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], et [illegible] Sbalinus [illegible] [illegible] 24 [illegible] [illegible] [illegible] [illegible] [illegible] illud quod dici solet, V. la qui ab initio sit voluntatis ex post facto fit necessitatis, [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] aliquam ingredienti [illegible] [illegible] [illegible], [illegible] ut id [illegible] obtineat [illegible] debet fieri [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] postea voluerint extra suum monasterium [illegible] exire, nec [illegible] dicibus evocari [illegible] [illegible] in judicio causa dicendi testimonii [illegible], [illegible] cap. [illegible] statu regularium lib. 6. tradit Azor Thomas Sanchez [illegible] [illegible] Barbosa de allegat. 102. n° 8.

n° 26.

Descendit hic [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] praeter tria [illegible] vota [illegible] [illegible] castitatis, et obedientiae [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad clausuram [illegible] ut [illegible] [illegible] monasterio nequeant exire [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Roman [illegible] [illegible] ut notant [illegible] Sbalinus loco supra citato, licet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] praedicti authores testantur [illegible] [illegible] opinionis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Bonifacii [illegible] [illegible] [illegible] relata in cap. [illegible] de statu regularium [illegible] tit. [illegible] adeo erat [illegible] ut [illegible] liceret [illegible] [illegible] [illegible] licentia [illegible] ingrediendi a monasterio monialium [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] monialium [illegible] [illegible] [illegible] [illegible] [illegible] Trid. [illegible] [illegible] de regularibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 1566. 4° Calendas Junii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] refert Barbosa [illegible] [illegible] est moniali [illegible] a religione [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] extra clausuram [illegible] [illegible] [illegible] [illegible] [illegible] similes causas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sequentibus, [illegible] [illegible] [illegible] Bonifacii [illegible] [illegible] [illegible] Trid. [illegible] [illegible] [illegible] ut [illegible] docent Barbosa, Azor et Sbalinus [illegible] [illegible] [illegible], [illegible] omnes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] spectant ad clausuram monialium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] solent [illegible] [illegible] nos remittimus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n° 27

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] difficultas [illegible] [illegible] [illegible] [illegible] explicare [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] relat[illegible]

[illegible] exaco aperte [illegible] femina religiosa in medio [illegible] comparere, et sic absolute fi-
[illegible] in persona [illegible] credi dictae [illegible] extra [illegible] posse nec in medio comparere generaliter [illegible]
[illegible] difficultas [illegible] Abbas Panormitanus in cap. [illegible] I. et II. de [illegible] judicata [illegible]
dicit, ex quo solutio ita desumenda [illegible] indicant, [illegible] femina religiosa [illegible] in medio [illegible]
[illegible], et quod [illegible] aperte [illegible] de [illegible], [illegible]
prosequitur Petrus [illegible] 499 [illegible] et [illegible] 3. part. [illegible] cap. 4. [illegible] absolutam [illegible]
[illegible] religiosae [illegible] ut tradit Joannes Andreas in d. cap. 1 et [illegible] 3°.
[illegible] et hic [illegible] clausura religiosa. =

n° 28

[illegible] interpretandus [illegible] difficile Innocentius [illegible]
[illegible] cap. [illegible] [illegible] quibus
[illegible] aperte colligitur [illegible] super [illegible]
[illegible] in medio [illegible] credi dictae feminae religiosae [illegible] posse in medio [illegible]
[illegible] comparere. Dicendum [illegible] cap. [illegible], nec [illegible]
et [illegible] cap. [illegible]
in medio comparere. quam solutio [illegible] colligi [illegible] tradit Abbas Panormitanus in d. cap. [illegible]

n° 29

Adversus hanc solutionem [illegible] difficilis in cap. [illegible]
[illegible] aperte colligitur [illegible] nec per se nec per procuratorem posse feminam religiosam
[illegible], propterea [illegible] intelliguntur [illegible] in cap. placuit 8. [illegible] 16 q. 1. de qua difficultate
[illegible] ad d. cap. [illegible] Josephus [illegible] n° 4. et de Clausura religiosa
[illegible] 2. [illegible] n° 5. [illegible] = [illegible]
feminis [illegible], la quae [illegible]
[illegible] Petrus Thomas [illegible] n° 6. [illegible] 44. [illegible]
ubi [illegible] hanc explicat, [illegible] perfecte [illegible]
[illegible] habeant. —

ˡ Cap. 1. e fin. de officio et pot. leg. deleg. no. 6.

[illegible]

Clarissimi et nobilissimi [illegible] delegati [illegible]

Decretal [illegible]

De [illegible]

[illegible] monumenta [illegible] ac vere [illegible]

[illegible] exercitium [illegible] violentijs [illegible] defendere possi[nt] [illegible] iniquitatem exequi[illegible] quam convictas extendere nequeunt. hoc idem statuitur in nostro capitulo 1. et in capitulo [illegible] Juris [illegible] ecclesiasticae judicijs delegatis [illegible] et [illegible] in concilio Tridentino [illegible] capitulo 5. et de iure [illegible] recopilationis; exornant, et illustrant hanc materiam [illegible] Geminianus [illegible] Joannes Andreas, Ancarranus, et alij, ex recentioribus [illegible] Thomas Sanches lib. 6. in precepta decalogi cap. 18. Salcedo in praxi Canonica cap. 3. in annotationibus [illegible] Tamburinus [illegible] Abbatis tomo 3. disp. 17. quaesito 1. et tribus sequentibus. Alexander Moneta in tractatu de [illegible] cap. 4. n. 6. Emmanuel Rodriguez quaestiones regularis tomo 1. q. 65. Molina de justitia, tomo 6. disp. 2. n. 2. Miranda in manuali [illegible] tomo 2. q. 47. art. 1. Petrus Greg. [illegible] cap. 22. n. 26. Cardinalis Tuschus tomo 2. litt. R. conc. 60. n. 8. Joannes [illegible] practic. q. 3 [illegible] q. 9. [illegible] tomo 3. q. 797. n. 792. cum sequentibus, Acebedo ad [illegible] pag. 118. [illegible] de Regia protectione [illegible] cap. 1. [illegible] cap. 10. n. 6. Barbosa [illegible] 106 [illegible] Barbosa [illegible] cap. 1. et [illegible] de [illegible] qui [illegible] hanc [illegible] materiam pertractantes. =

n. 3.

Et prius quam [illegible] decissivam [illegible] proveniamus, [illegible] explanat animadvertendum venit; et in primis observamus judices conservatores [illegible] antiquum Decretalium [illegible] filiis [illegible] eos nominare [illegible] jurisdictionis, [illegible] Innocentii 4. et [illegible] Octavum in nostris decisionibus adinventi fuerunt; [illegible] colligitur ex illo [illegible] Gratianus, [illegible] testatur [illegible] Dominicus Geminianus [illegible] Barbosa in collect. ad [illegible] a Praelatis [illegible] Pontifices nostri [illegible] judices generales dixere, quippe in Urbe Romana, tanquam [illegible] universalis Ecclesiae [illegible] jurisdictio, et recepta [illegible] q. q. 3. cap. [illegible] obedientiam [illegible] Petrus Greg. [illegible] Syntagmatis [illegible] ordinarijs judicibus [illegible] merito hi judices fuerint [illegible] conservatores nominantur, [illegible] Religiosos [illegible] ecclesiasticis [illegible] de [illegible] judicare, docet Molina [illegible] disp. [illegible] q. [illegible] =

n. 4.

Rursus animadvertimus conservatores esse judices delegatos a Romano Pontifice datos ad tuendos aliquos ab injurijs, et manifestis violentijs, quod alia [illegible] exercentes. [illegible] singulis [illegible] probatur ex nostris [illegible] et [illegible] 11. [illegible] 86. et tanquam [illegible] elucidatur [illegible] Ex qua definitione infertur 1. [illegible] jurisdictionem ordinariam, vel delegatam, [illegible] officij [illegible] conservatores delegatos appellari probatur ex nostris decisionibus [illegible] officio [illegible] judices delegati [illegible] aperte indicat Canones [illegible] quod [illegible] dicamus, quilibet [illegible] debet [illegible] ter 16 [illegible] quos sequuntur Dominicus Geminianus hic [illegible] Ancarranus [illegible] Petrus Greg. 47. Syntagmatis cap. 22. n. 33. [illegible] Bulla [illegible] judices ordinarios, [illegible] a Pio 5. et Greg. 13. [illegible] conservatoria [illegible] Molina [illegible] ordinaria [illegible] delegata [illegible] sequitur judices conservatores [illegible] quam [illegible] procedere [illegible] Ordinarios [illegible] conservatorijs [illegible] nec [illegible]

[illegible] ex [illegible] in [illegible] Ordinarium [illegible] Molina [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] quae deuede [illegible]

[illegible] omnia [illegible] [illegible] [illegible]

[illegible], [illegible] inter quos iudices [illegible] [illegible] [illegible]

[illegible] namque [illegible] respectu [illegible] qui generales iudices [illegible] [illegible] Pontifex [illegible]

[illegible] sit absoluta, [illegible] iudices generales nominare [illegible] cap. [illegible] P. [illegible] hoc tit. [illegible]

Dominicus Semininus [illegible] n. 2. Emmanuel Rodriguez [illegible] 1. q. 25. art. 1. Nec magis urget 2a dubitatio, namque [illegible]

Si animaduertamus [illegible] quae extant inter [illegible] conseruatores iudices, [illegible] delegat.

tant. [illegible] spectat, [illegible] vel diuersam [illegible] constituit [illegible] tradit Bar. [illegible] de off.

[illegible] 106 n. 5. in fine. Hinc depe[illegible] quibus iudices conseruatores cum ceteris delegatis

n. 6. [illegible] quant, et in quibus inter se differant; quod utrumque magnopere ad [illegible] explanandum [illegible]. Itaque hi iudices

conueniunt 1o in eo quod [illegible] delegatorum [illegible] dicto [illegible] concedentis [illegible] expirat [illegible] relatus [illegible]

[illegible] 20 hoc tit. [illegible] iudices, qui elegantere [illegible] tradant Thomas Sanchez [illegible] 8. de matrimonio disp. 27. [illegible]

[illegible] lib. 5. cap. 23. et 24. [illegible] Sermonius lib. 5. animaduers. [illegible] cap. [illegible] Merla [illegible]

n. 92. itaque iudices conseruatores potestas [illegible] concedentis [illegible] cap. [illegible]

hoc [illegible] = 2o conueniunt, quia illud quod in iudicibus delegatis statuitur [illegible] munera, [illegible] notant

[illegible] cap. statut. [illegible] de rescriptis [illegible]

lib. 6. hoc idem obseruandum est in iudicibus conseruatoribus, ut ex [illegible] probat [illegible] cap. finali § [illegible] off. [illegible] in fine hoc tit. ubi

[illegible], [illegible] Petrus [illegible] cap. 22. n. 29. = [illegible] conueniunt denique in eo quod sicuti ceteri delegati nequeunt reum

in iudicium trahere vel ultra unam dietam citare [illegible] cap. statutum [illegible] cum de rescriptis lib. 6. Sic etiam conseruatores [illegible]

[illegible] cap. [illegible] conseruatores infra hoc tit. quod si in litteris apostolicis derogata sit [illegible] poterit reus trahi [illegible]

duas dietas [illegible] dispositione iuris antiqui relata in cap. [illegible] extra de rescriptis, quinimo [illegible] sit dispositio

dicti capitis [illegible], poterit reus [illegible] ultra duas dietas citari, ut notant DD. in predictis iuribus. [illegible]

huius Salmanticensis nostrae Uniuersitatis iudex conseruator poterat [illegible] partem [illegible]

priuilegio speciali concesso [illegible] 4o [illegible] quod refertur inter huius Uniuersitatis statuta, ubi [illegible]

constitutiones [illegible] et duabus dietis, [illegible] postea restrictus fuit ad duas tantum [illegible] in Bulla Innocentii [illegible]

meminit [illegible] l. 10 tit. 7. lib. 1. recopilationis, quam refert [illegible] 3. et hoc [illegible] animaduertunt [illegible]

[illegible] 4. [illegible] cautionibus Bobadilla in politica lib. 2. cap. 19. n. 33. [illegible] lit. A. de quibus autem dietis [illegible]

[illegible] ac de vulgaribus, an [illegible] DD. relati a Menochio lib. 2. de arbitrariis [illegible] 206. [illegible]

[illegible] dietis intelligitur de vulgaribus, quae [illegible] decem leucas, [illegible] reputantur

[illegible], [illegible] ut probat [illegible] l. 4. tit. 16. par. 2. ubi [illegible] Lopez [illegible] docet plures [illegible]

[illegible] ad [illegible] l. 10. tit. 7. lib. 1. recopilationis, [illegible] tit. 2. [illegible]

[illegible] 8. n. 22. cum sequentibus. [illegible] conueniant predicti iudices delegati [illegible] conseruatores, tamen in sequentibus

n. 7. [illegible] canonicus [illegible] cap. statutum de rescriptis, tamen [illegible]

differunt. 1o quia quamuis alias quilibet canonicus [illegible] cap. finali [illegible] hoc tit. [illegible] in cap.

[illegible] in dignitate constitutis, ut in cap. [illegible] hoc tit. [illegible]

[illegible] canonicis docent Mandosius de signatura gratiae tit. de conseruatoria folio 123. Petrus [illegible] 28, quod [illegible]

Pontifex concedere facultatem [illegible] conseruatoris [illegible] conseruatores canonicis [illegible] Mandosius [illegible]

ubi proxime. = [illegible] 2o quia quamuis alias delegatus possit [illegible] sui iudicis [illegible] saluo iure recusationis [illegible]

[illegible] cap. [illegible] hoc tit. [illegible] nihilominus conseruator [illegible] conseruatoris, [illegible]

[illegible] iurisdictione [illegible], [illegible] exceptis, ut [illegible] finali § 1. [illegible] hoc tit. [illegible] conseruatoris [illegible]

quam [illegible] [illegible]. 3o hi iudices [illegible] licet iudices delegati [illegible]

instantia [illegible] cognoscere, [illegible] ordinariis [illegible] cap. [illegible] de off. ordinarii [illegible] Concilio Trid. [illegible]

sess. 24. de reformatione cap. 20., nihilominus conseruatores in prima instantia cognitionem habent, et ordinarii [illegible]

[illegible]

[illegible]

... Archidiaconus ... fundamentis ... tenent Dominus Joannes Andreas ... Mandosius ... Monetta de conservatoribus cap. 4 ... Emmanuel Rodriguez ... etiam admittere receptum, licet ordinarius defendere teneatur Archidiaconus ... ubi probatur quod sedis Apostolicae possit conservatorem deputare. Et hoc illud discrimen ... licet conservator non ... debeat, ... nisi a Romano Pontifice nominari, ut praediximus, tamen judex ... ab inferioribus ordinariis ... cap. pastoralis ... judici ordinarij ... antiquiores omittere ... ad praedicta ...

Nº 9.

Amplius ex praedicta definitione deducitur ... adversus aliquem ... manifestas violentias judices conservatores ... ut tantum serviunt de notorijs, et manifestis injurijs cognoscere; Ea namque est manifesta injuria, et violentia, quae ita patet, ut nulla possit negatione aut tergiversatione celari, ut in cap. ... de electione ... de testibus ... cap. finali de cohabitatione clericorum ... docent Mascardus de probationibus ... 1106. n. 3. Antonius Gomes tom. 3. Variarum cap. 1. nº 41. Gutierres lib. 2 pract. quaest. 3. q. 26. n. 132. Julius Clarus § ... sententiarum § finali q. 9. ... in nostris decisionibus accipitur in genere pro omnibus quae ... notoriam, et manifestam ... omnia ... tali notorietatis qualitate constare debere. Hac eadem ratione, quia lex, vel dispositio fundatur in aliqua qualitate, ante omnia ... debet ... quam notorietatis probandae sufficit testimonium duorum ... testium legitime deponentium ... in cap. ... et attestationibus ... nec requiritur quod ... omnes ... qualitatis erant necessarij ad notorium efficiendum. Itaque si reus fateatur factum, et qualitatis ipsius notoriam fuisse, tali probatione judice conservatore ... quoniam per confessionem de notorietate dicitur constare. ... de cohabitatione clericorum ... olim de V. S., si vero factum notorium negetur, poterit judex conservator recipere probationes, et pronuntiare super facti notorietate ut videat an dua ... juridictio ... de judicijs ... cap. super litteris ... probandae solemnitas ... non recordo ... attenditur ... cap. tua nos de cohabitatione clericorum ... quoniam ... de ... litterarum ... tradit Julius Clarus ... Ant. Gomes ... cap. 1. nº ...

Nº 10

Hic controvertitur, et dubitatur quid dicendum sit ... facti notorium negatur, ... qualitas ipsius facti, quia ... dicit ... notorietatis ... conservator ... habebit ... in delicto ... conservator ... fundamento ... quia ad hoc ut habeat ... notorium ... quod ipsius facti sit notorium, ... notorium qualitatem ipsius facti, ergo reus ... excusat ... tradit Julius Clarus ... q. nº 3. Mascardus ... 1106. n. 8. Qua ... nec ... obstante ... qualitate occulta delicti notorij ... conservatoris jurisdictio; ... in delictis ... cap. 1. de ... nullus ... notorium sit ... aliqua excusatio ... cap. ... de accusationibus, ... auth. ... de tabellionibus ... nullius ... quoties haberet ... notorium, et ... jurisdictio, ... docent ... Mascardo ...

Nº 11.

Denique ex hac definitione inferimus ... illis ... quod adversus ... exercentes judices conservatores ... cognoscere possunt ... qui ... de ... ut constat ... locum ... ex cap. ... recusationis; docent ... n. 3. Gutierres ... nº 9. ... privilegiati possent ... conservatoribus, ... exceptionibus ... speciale ... 4. q. 47 ... Gutierres ... pract. ... Barbosa ... nº 40.

[illegible]

n.° 12 [illegible]

[illegible]

n.° 13.

[illegible] Superius tradita, & nostrae assertionis decisiva ratio ex [illegible] authoritatibus [illegible] graviter oppugnari videtur. 1° ex decisione [illegible] cap. ad usque 21. [illegible] Bernardus de Durando [illegible] aperte colligitur [illegible] in notoriis, & manifestis iudicialis ordinis necesse [illegible] conservatores de causis in quibus iudicialis [illegible] requiritur indago [illegible] possint cognoscere, nec de notoriis cognoscere [illegible], propterea quod in illis [illegible] iudicialis [illegible] Verum ab hac difficultate facile liberabimur, [illegible] quod licet [illegible] probetur aliquis indagat[illegible] ce[illegible], tamen ex [illegible] conservatoris iurisdictio, quia conservatoribus tantum causis in quibus ordo iudicii [illegible] requiritur [illegible] habet [illegible] ex [illegible] in notoriis [illegible] iudicialis indaginis exercere, quia [illegible] conservatori [illegible] similiter videntur [illegible] ut [illegible] iuris dicunt [illegible] Dominicus [illegible] n. 2. Francus [illegible] 3. Aicarranus [illegible] 5. Alvarez [illegible] 4. Gutierrez in practicis [illegible]

n.° 14.

Secundo [illegible] praedicta nostra [illegible]; nam [illegible] conservatores [illegible] [illegible] notoriis [illegible] publicis aut [illegible] qui transiunt in authoritatem rei iudicatae, [illegible] Civilis [illegible] delinquendo delicti [illegible] faciunt [illegible] iniuria [illegible] [illegible] decisionibus [illegible] manifestis iudicialis [illegible] conservatores cognoscere [illegible] Didacus Perez [illegible] conservatores aut iudices [illegible] decis. 58. [illegible] Valdes [illegible] ut [illegible] civilibus conservatores cognoscere [illegible] conservatores [illegible] aliquid [illegible] civili, ut colligitur ex [illegible] decisionibus [illegible] Trid. [illegible] 14. [illegible] Civilis [illegible] Gutierrez [illegible] cap. 9 n.° 9. = Nec tamen obstat [illegible] docent Alciatus [illegible] ut [illegible] Lex Cornelia [illegible] dicendo [illegible] [illegible] aperte colligitur ex [illegible] Alciatus & Gutierrez [illegible] = [illegible] Observantia [illegible] generale [illegible] ut dicamus habere conservatores [illegible] [illegible] in causis civilibus in quibus [illegible] fit ab Ordinario, [illegible] conveniendos esse, nam [illegible] praedicta regula [illegible] [illegible] conservatores [illegible] habent, ut superius diximus =

n.° 15.

Denique [illegible] Trid. [illegible] [illegible] habuerint coram [illegible] in hac [illegible] Sede delegatis conveniri [illegible] cap. 14. [illegible] ex quibus videtur aperte colligi exemptum coram Ordinario conveniri [illegible] ad absolvendum debitum [illegible] conservatores deputatos [illegible] habeant, [illegible] causa [illegible] [illegible] facile [illegible] Trid. [illegible] habentibus iudices conservatores [illegible] Ordinariae [illegible] [illegible] Trid. [illegible] exempti habeant [illegible] Gutierrez [illegible] Pract. [illegible] nec [illegible] coram conservatore, [illegible] coram Ordinario, [illegible] Gutierrez [illegible]

n.° 16.

Altera Trid. authoritas extat in [illegible] 14. cap. 5. [illegible] in civilibus eligere conservatores [illegible] in causis civilibus [illegible] cognoscere [illegible] [illegible] dicta authoritas vel [illegible] intelligenda [illegible] in praecedenti argumento, vel [illegible] [illegible] possint eligere conservatorem ab Apostolica Sede [illegible] ut [illegible] iudicialis indaginis [illegible] forma mandati [illegible] [illegible] Navarrus in Manuali cap. 27. n.° 225. [illegible] Declarationibus [illegible] [illegible] Universitatibus Generalis [illegible] regularia, & [illegible]

[illegible]

[illegible] ecclesiarum Cathedralium in Conservatores eligere valeant, tunc ex voluntate [illegible] redeat [illegible] nominari et [illegible] tradunt Molina de Iustitia disp. 29. n° 3. [illegible] resolut. 340. =

n° 18.

Adversus hanc [illegible] doctrinam [illegible] insurgit difficultas [illegible] nascitur [illegible] ex cap. Statutum, de rescriptis in 6°. in illis verbis: Sancimus igitur ut nullus, nisi dignitate praeditus, aut personatum obtinens [illegible] ecclesiarum Cathedralium Canonicus, cum authoritate litterarum Sedis Apostolicae, vel legatorum [illegible] Conservatores [illegible] eligi [illegible] qui [illegible] dignitatibus sunt constituti [illegible] Cathedralium ecclesiarum [illegible] recte dicitur [illegible] tale exercitium [illegible] officium Canonicis [illegible] permittitur nisi hoc in Apostolicis privilegiis [illegible] [illegible] facilem habet [illegible] advertamus decisionem [illegible] cap. Statutum innovatam esse per [illegible] Bonifacii [illegible] cap. ult. quo non [illegible] dignitatem constitutis hoc munere [illegible] docent hanc [illegible] cap. ult. [illegible] cap. Statutum authores [illegible] Difficiliorem videtur habere explicationem [illegible] Doctis [illegible] sess. 25. de reformat. cap. 16. ex quo [illegible] ecclesiarum Cathedralium Canonicos [illegible] Conservatores habere [illegible] censentur [illegible] Canonicatus in Cathedralibus dignitas [illegible] docent [illegible] Flaminio [illegible] hoc munus Canonicis Cathedralium ecclesiarum [illegible] denegat [illegible] Bonifacii videtur. Verum [illegible] est in d. cap. 16. [illegible] Conservatorum [illegible] quorumcumque Canonicis [illegible] nequaquam [illegible] Conservatores esse delegatos [illegible] licet aliquando [illegible] differunt, ut [illegible] quod Canonicatus nomen dignitatis mereri [illegible] post [illegible] dignitatis Canonicatus describitur [illegible] et habebitur dignitas aliqua [illegible] [illegible] non extendenda [illegible] tanquam odiosa [illegible] quibuslibet dignitates occupantibus [illegible] conclusionem [illegible] attenta [illegible] Canonicos [illegible] posse deputari in [illegible] Conservatores, nisi [illegible] Pontificio privilegio aliud [illegible] tradita. =

n° 20.

[illegible] Vicarios [illegible] Conservatorum munus habere [illegible] fortissimo fundamento probari videtur, nam ex regula nostri [illegible] dignitas [illegible] requiritur ad [illegible] exercendum, at [illegible] Vicarii [illegible] dignitate [illegible] tradit Abbas Panormitanus in cap. de multa [illegible] 23. de [illegible] dignitatibus [illegible] post [illegible] Menochius [illegible] 51. [illegible] reperiatur dignitas [illegible] tales [illegible] Vicarii [illegible] hac dignitate [illegible] in terminis Cardinalis Zabarella [illegible] 12. Emanuel Rodriguez [illegible] 65. art. 17. [illegible] attenta [illegible] Arcamus [illegible] post [illegible] resolut. 340. [illegible] habere potuerit [illegible] privilegia religionis [illegible] fuerit ut possint Vicarii generales in suos Conservatores eligere [illegible] tradit [illegible] Barbosa [illegible] alleg. 206. [illegible]

n° 21.

Deinde [illegible] religionum superiores [illegible] ad munus et officium Conservatoris admitti queant [illegible] attento [illegible] varias scriptorum [illegible] opinione [illegible] quorundam affirmantium, tamen [illegible] Superiores admitti [illegible] ad Conservatoris munus exercendum [illegible] qui [illegible] sunt [illegible] dignitate [illegible] nec sine duce [illegible] novissima Illustrissimorum Cardinalium decisio [illegible] recepta. quaerente Archiepiscopo Turritano, an regulares superiores conventus, monasterii, vel domus aliquem Priorem, seu guardianum, vel quemvis alium dignitate regulari fulgentem in suum Conservatorem eligere vel deputare possint: Sacra Congregatio Cardinalium negotiis regularium praeposita [illegible] posse respondit [illegible] 1617. [illegible] Monetarius [illegible] 24. [illegible] Barbosa [illegible] alleg. 26. [illegible] Illustrissimorum Cardinalium decisio refert [illegible] Conservatores. =

n° 22.

Amplius ex superius dictis [illegible] Conservatoris potestatem [illegible] sententia manifestatur [illegible] in utrumque [illegible] inferendam [illegible] [illegible] ad munus officii exequendum [illegible]

[illegible] ... sed accusari [illegible] ... saecularē [illegible] ... cap. 4. n° 10 ... [illegible]

[illegible]

... capite hoc n° 2. explicabimus ... [illegible]

Animadvertendum [illegible]

Demum est [illegible] recusari quando ipsa [illegible]
Diaconus recusando exigitur [illegible] saecularis, minime). Qua in re [illegible] dicendi putamus [illegible] ... Archidiaconus, et Dominicus Francus ... et post eos docet [illegible] cap. 34. q. 11. ... [illegible] Servatores tantum de iniuriis et violentiis manifestis cognoscunt, in quibus non admittitur recusatio, cum omnino ligatur [illegible] in his iudicibus, nec similiter appellatio sed ... cap. Cum dilecti [illegible] Romana ... Pervenit 13. cap. Dilecti 14. cap. Cum speciali 61. ... de appellationibus ... Romanus ... Conservatoribus tam recusatio, quam appellatio hodie admittenda non est, nam in praxi quotidie observatur. Videmus ... Conservatores appellari ... super notoriis iniuriis tamen appellatur, et ... ex Trid. sess. 14. ... concessa facultas partibus recusandi conservatorem ut ... Cum in his casibus ... fuerit, ut eligatur ab eo ... conservator ab actore suspectus dicatur, aut ... arbitros ... super competentiam ... fuerit, nequaquam in causa procedatur donec ... arbitros ... electos super suspicione, aut ... competentia ... fuerit iudicatum ... Baldus ... 106. n° 3. ... a ... 97. 3779 ... Huic doctrinae ex diametro ... adversatur ... cap. ... de suspecto 15. 3. q. 5. in ultimo. cuius serie aperte videtur colligi in notoriis recusationes admitti, et hoc astare videtur ex eo, quod per quam regula generalis fuit statuta, ut, quod suspecti, et inimici iudices recusentur, proponitur Athanasius ... a suo Patriarcha canonice ... proptereaque ... ad Synodum Calcedonensem ... occurrit, quia ... a Patriarcha ... quoniam ... talis ... nam ... igitur cum iudices conservatores ... cognoscere ... iniuriis, et violentiis notoriis, et in hoc cap. recusatio admittatur, videtur dicendum ... recusari posse etiam in re ... adversus ... ad superius dicimus. Nonnulli ex antiquioribus hanc difficultatem ... sententiam adhaeserunt, ut stat ex traditis a Berroio cap. ... Romana ... de appellat. ... n° 81. Archidiaconus in ... de suspecto 3. q. 5. ... putamus ... attento conservatores iudices recusari ... quod suspecti ... Athanasio ... a sua ... de facto ... fuerant ... manifesta ... ex post facto ... Patriarcha ... Athanasio absente ... tamquam ... facta ... recusatio ... manifesta est ... admitti, nec ... quod ... ablata ... iudicaverit ... et hic ...

= Benedicta sufficiant ... in laude Sanctissimae Trinitatis Patris, Filii et Spiritus =
= Sancti, nec non ... Deiparae Virginis Mariae absque peccato originali =
= macula conceptae, et omnium Sanctorum =
= ... =

Solemn...

[illegible] ... a tempore [illegible] ordin[illegible], cap.º Maxi[illegible] ... [illegible] docent [illegible] 6. [illegible] expectat [illegible] ... [illegible] Pontifices, et maximos Sacerdotes, [illegible] ... [illegible] habere, ubi que [illegible] Sacra officia exercere, aliaque plura [illegible] ... tradunt [illegible] Castro [illegible] Oviedo [illegible] 9. cap. 27. q. 1. [illegible] Quiroga [illegible] ... [illegible] Barbosa de off.º et potest. epi. [illegible] p. 1. tit. 1. cap. 2. n.º 4. idem Barbosa in collect. ad [illegible] n.º 2.

n.º 3.

Sit secundus assertus [illegible] episcopatus inter [illegible] dignitates, quemadmodum enim in [illegible] civitatis Republica [illegible] publica adest potestas, [illegible] quietem et pacis [illegible] gubernationis, ita in Ecclesiastica Republica dignitas episcopi [illegible], [illegible] officiis, atque [illegible], ut [illegible] docent Castro [illegible] cap. 27. q. 1. Mendoza [illegible] Cancellarii q. 5. Ossa de [illegible] cap. 4. n.º 64. [illegible] [illegible] dignitas [illegible] statuitur in [illegible] Trid. [illegible] cap. 4. [illegible] [illegible] debentur, nec mirum hoc [illegible] Dominus noster [illegible] haberet discipulorum genera, alios in numero [illegible] alios in numero septuaginta duos, illos Apostolos nominavit, istos simpliciter [illegible] nuncupavit; illis fuit [illegible] in [illegible] secrandi, [illegible] discipulis simpliciter, [illegible] cap. [illegible]. Itaque epi. [illegible] Apostolis successerunt, presbiteri [illegible] formam gerunt discipulorum septuaginta duorum, atque [illegible] [illegible] in Eccl[esi]a, cap. in novo [illegible] tradunt ordinarii [illegible] cap. Clericos [illegible] dist. [illegible] Divus Thomas [illegible] q. 65. art. 3. ad 2. [illegible] in 4.º d. dist. 25. q. [illegible] art. 1. ubi Bonaventura [illegible], et alii, docent [illegible] Vasquez, Eggiano, Toletus, Enrrique, Bonacina, Layman, et alii plures in specialibus [illegible] de ministro Sacri Ordinis, [illegible] 1. var. cap. [illegible] n.º 7. [illegible] 6. [illegible] majoris [illegible] 9. Petrus Gregorius [illegible] 16. Sintagmatis cap. 9. Barbosa de off.º et potestate [illegible] allegat. 1. ex n.º 1. cum Seqq.

n.º 4.

In tanta dignitate episcopi [illegible] plurima curare docent, [illegible] nulla [illegible] ordine [illegible] [illegible] respectu jurisdictionis ad illa exercenda electio, et confirmatio, et [illegible] adesse debet; ad [illegible] ministranda [illegible] electio, [illegible] cap. transmissam [illegible] et [illegible] potest. Igitur [illegible] adesse pertinet Sacros ordines [illegible], quippe [illegible] Sacramenti Ordinis ordinarius [illegible] minister est, ut definit [illegible] Florentinum in decreto de Sacris [illegible] Trid. [illegible] 23. q. 7. Trid. [illegible] 29. cap. 4.º et cap. 7. [illegible] ex Canone [illegible] Apostolorum, et ex cap. [illegible] de Ordinatis ab epo. qui renuntiavit episcopatui, cap. quamvis 4. [illegible] [illegible] 25. dist. [illegible] [illegible] officia, et ordines Ecclesiasticos distribuit, tradunt [illegible] superiori [illegible], [illegible] Sebastianus Cesar de Ecclesiastica hierarchia disp. 31. cap. 1. cum seqq. Item [illegible] episcopalis potestatis [illegible] consecrare, et benedicere ecclesias, altaria, et alia sacra ornamenta probatur ex [illegible] cap. Clericos [illegible] cap. [illegible] 25. dist. [illegible] Sicut [illegible] cap. nullus 15. de consecrat. dist. 1. cap. unico de sacra Unctione, quibus [illegible] reconciliare, [illegible] consecrata erat proprium [illegible] munus [illegible] cap. aqua [illegible] de consecrat. eccl. vel altaris. Similiter ad epos. expectat Sanctum Crisma, et oleum conficere [illegible] cap. quamvis [illegible] cap. presbiteros 95. dist. [illegible] cap. [illegible] de consecrat. dist. [illegible] cap. 1. cum Seqq. [illegible] 6. cap. unico [illegible] de sacra unct. cap. quanto 4 de consuetudine, nec [illegible] benedicere sacras Virgines [illegible] cap. quamvis [illegible] Sanctimonialis 24. [illegible] dist. cap. [illegible] 26. dist. [illegible] 27. dist. docet [illegible] Thomas Sanchez in [illegible] lib. 5. cap. 5. n.º 22. cum Seqq.

n.º 5.

Sit postremus assertus [illegible] reverentiam [illegible] adesse in maximo honore [illegible], ideoque tanquam [illegible] superiores [illegible] honorem debere. Sublimitas enim [illegible] nullis potest comparationibus [illegible] Scriptura [illegible] lib. 3. de sacerdotio, et Nazianzenus [illegible] oratione [illegible] Nazianzenus [illegible] quantum [illegible] est, quantum [illegible] anima corpori, spiritus carne, divina humanis [illegible] tanto [illegible] Principatu omnia [illegible] antecellit, et quanta est distantia inter Solem et Lunam, tanta inter [illegible] Sacerdotium, et Imperium cap. Solitæ 6. de majoritate et obedientia. [illegible] Principes Catholici [illegible] [illegible] quantum honorem [illegible] tribuendum est [illegible] inferiores [illegible]. [illegible] alia, [illegible] extant in testimonium [illegible] Constantini Magni Imperatoris [illegible], qui [illegible] [illegible] convenerant ad Concilium Nicenum celebrandum in medio [illegible] [illegible] fabricata [illegible] prius sedit, [illegible] testante Eusebio [illegible] lib. 3. cap. 10. [illegible]

[illegible]

[illegible] nec non Ceremoniis, et ferventer [illegible] debent [illegible]

[illegible] et potius ad eos [illegible] hanc [illegible] exercent. [illegible]

[illegible] nec [illegible] ignorante [illegible] de alio iurisdictionali tractatu, ita ut [illegible]

[illegible] Iustitiae [illegible] advertere debet, procedere [illegible] modo [illegible]

iudicem Conservatorem, aut delegatum à Romano Pontifice nominatum.

n.º 7

Pergit [illegible] utrum à iudicibus, vel Conservatoribus à Sede [illegible] deputatis [illegible] ad [illegible] [illegible], [illegible] fuerit procedendum, gravis, et modestiae [illegible] [illegible] Statuitur iudices Conservatores à Sede Apostolica deputatos, aut [illegible] ad [illegible] qualiter debeant procedere [illegible] videlicet, esse modeste conservare, et [illegible] qualitate [illegible] habere debere, hoc idem statuitur in capite [illegible] cap. pastoralis 28 [illegible] de officio [illegible] iudicis delegati [illegible] capite [illegible] 7. de maioritate, et obedientia, [illegible] cap. cum [illegible] 45. dist. cap. [illegible] 50 dist., cap. finali [illegible] cap. [illegible] 3. [illegible] cap. [illegible] pacem [illegible] 24. q. 1. docent Ioannes Andreas, Dominicus, Geminianus, et Franc[illegible] n.º 3. [illegible] n.º 2. Panormitanus in d. cap. [illegible] n.º 5. ubi Imola, Felinus, et [illegible] Barbosa [illegible] allegatione 106. n.º 37. [illegible] Barbosa [illegible] n.º 4. [illegible]

n.º 8

Nec [illegible] intemperanter à iudicibus [illegible] quippe [illegible] plurimum differendo e dignitatibus [illegible] Capitulis [illegible] Senatores, vel [illegible] et plebeio, [illegible] attentius, modestius, et temperantius, quam alios [illegible] sunt [illegible], [illegible] tanquam Patres habemus, et sacri officii exercent. [illegible] et prorogative [illegible] solum episcopum consecratum, verum etiam electum, et confirmatum tantum [illegible] quin [illegible] reverentiam [illegible] dignitatis, et officii episcopalis, [illegible] Ordinis, at [illegible] electus et canonice confirmatus [illegible] consecratus. Licet [illegible] ad ordinem episcopalem [illegible] dicta, tamen [illegible] attinet ad [illegible] episcopalem, [illegible] valet exercere [illegible] ordinariis [illegible] episcopus appellatur, [illegible] docet [illegible] cap. 29. q. 1. [illegible] quo privilegio, [illegible] debet gaudere. Caveant itaque iudices [illegible] ita [illegible] personam, et dignitatis [illegible], [illegible] 10. §. [illegible] cap. finali de [illegible] [illegible] notant [illegible] Tiraquellus de nobilitate cap. 20. n.º 108. [illegible] Collect. [illegible] cap. 9. n.º 9. Iulius Clarus lib. 5. receptar. [illegible] §. finali q. 60. n.º 24. plures [illegible] refert, [illegible] in Collect. ad Decretales [illegible] cap. [illegible] quidam 12. de [illegible] sequentibus.

n.º 9

[illegible] nostra [illegible] [illegible] in cap. [illegible] 3. [illegible] ubi statuitur [illegible] modestius [illegible] personarum [illegible] personarum habenda [illegible] De [illegible] cap. venerabilis [illegible] dignitatis, [illegible] cap. [illegible] 16. [illegible] [illegible] [illegible] [illegible] et [illegible] Senatores, aut [illegible] episcopum in Pontificali dignitate constitutum.

n.º 10

[illegible] gravis [illegible] [illegible] quidam [illegible] 9. [illegible] de monachis, [illegible] modo debet esse [illegible] moderatius [illegible] [illegible] hac [illegible] [illegible]

[illegible] ... lubet acc[illegible] denarys [illegible] ... [illegible] titer.

n.o 11.

Secundo urget difficultas [illegible] quidam [illegible] circulationi [illegible] talis ter respondemus, quod in [illegible], qui suum transgressi [illegible], est tanto [illegible] vindicandi, quanto maiori [illegible] eminent dignitate [illegible] exemplo, [illegible] poterunt ad similia [illegible], ex quibus aperte [illegible] proptereaque [illegible] dignitate [illegible], ac crudelius quam allios puniendos [illegible] quo [illegible] peccatum [illegible] homo [illegible] Imperator [illegible], de quo [illegible] C. [illegible], et [illegible] delinquentes peccata [illegible] et [illegible] videtur illud [illegible] omne animi [illegible] tanto [illegible] in se crimen [illegible], quanto maior qui peccat, [illegible]; [illegible] dignitas peccati [illegible] cavendi [illegible] constituti [illegible].

n.o 12.

Hanc difficultatem [illegible] dignitatem [illegible] quam ad [illegible] et peccat, Deo [illegible] offensam, et [illegible], namque quis maior est tanto gravius Deum offendit, [illegible] debet [illegible] homo [illegible] quatuor [illegible] tradit D. Thomas 1.a 2.ae q. 73. art. [illegible] repugnantia [illegible] peccati ad [illegible] exemplo [illegible] scandali [illegible] maiori ingratitudine, [illegible] facilius resistere [illegible] peccato qui excedunt [illegible], et [illegible] merito puniri [illegible] statum, et dignitatem [illegible], ut [illegible] qualis [illegible] et conditionem [illegible] ibi [illegible] 5. ubi docet [illegible] 43. [illegible] sequuntur Immola, Felinus, et [illegible] cap. cum quis [illegible] Tiraquellus qui plures allios [illegible] 35. —

n.o 13.

Verum [illegible] quia licet [illegible] sententia [illegible] verax sit, tamen difficultas [illegible], quia [illegible] procedit in foro [illegible], [illegible] et hoc [illegible] fundamentis. 1.o quia [illegible] quando [illegible] de veritate [illegible] cap. veritate manifesta [illegible] 18. [illegible] 49. de [illegible] 26. [illegible] docet [illegible] cap. 2. n.o 2. [illegible] etiam in iudiciali [illegible] dignitas auget delictum [illegible] cap. 2 § sane [illegible] cap. [illegible], § credentes de hereticis, [illegible] delicto [illegible], quanto gravius delinquit, tanto [illegible] puniendus [illegible] iudiciali foro [illegible] tradit [illegible] et alii [illegible] 6. [illegible] 21.

n.o 14.

Tertio [illegible] quidam [illegible] ut, [illegible] similia procedere in [illegible] corporalibus, quibus [illegible] puniendi si personis [illegible] procedere in [illegible] pecuniariis, quibus [illegible] puniendi [illegible] quam [illegible], et [illegible] ex cap. [illegible] 25. [illegible] cap. [illegible] pacem 24. q. 1 [illegible] utraque [illegible], [illegible] item [illegible] Clara, Bartholus, et Tiraquellus [illegible] 20 n.o 25. et [illegible] affligitur [illegible] ex qualibet [illegible] sacerdotale [illegible] veritatem [illegible] quidem, et similes, [illegible] corporalibus [illegible] puniuntur [illegible].

n.o 15.

[illegible] solutio [illegible] difficultatem [illegible] putamus ad quamvis [illegible] nobilitate et dignitate personarum [illegible] delictum [illegible] cessat, [illegible] dignitatis [illegible] auget, veluti [illegible] peccamus, [illegible] ministrationis, vel [illegible] delicti [illegible] dignitatem [illegible] mensuram [illegible] gravius [illegible] scandalosam [illegible] licet [illegible] quantitatem [illegible] dignitas, [illegible] sponte [illegible] tanto peccat, [illegible] quis sunt in inferiori dignitate constituti, [illegible] iudice, [illegible] ubi [illegible] Tiraquellus [illegible], et [illegible] alios, quos refert [illegible] ad [illegible] cap. [illegible] 8.

[illegible]

[illegible] quae dicta sunt [illegible]

[illegible] vel [illegible] sententiis [illegible]

ribus, S. Dionysius [illegible] deposuit, [illegible] [illegible] [illegible]

thentica authoritas, nec minus hoc urgeri debet, nam [illegible] quia maiori digni sunt [illegible]

in cap. Si quis homicidium 41. lat. 50 dist. ubi si episcopus homicidium committat deponitur, et per quindecim annos [illegible]

poenitentiam pro duodecim, Diaconus vero per decem; hic [illegible] quando [illegible] cessare, tunc V. [illegible] quia [illegible]

ut sui dignitatis [illegible] puniantur; ita docet Didacus de [illegible] quem [illegible] adversus [illegible]

[illegible] ac explicat [illegible] exponentibus [illegible]

tam ab hoc aliena omittimus, [illegible] adlegans tradit [illegible] de censuris disp. 43. sect. 5. n. 2. Dulcedo in praxi

Canonica cap. 93. Mendoza [illegible] Illiberitani cap. [illegible] =

n. 17. Ex hoc infertur quemlibet [illegible] episcopum de aliquo crimine [illegible] denuntiare, [illegible] debere [illegible]

charitative admonere, ut se corrigat et emendet, alioquin [illegible] admittetur denuntiatio; cap. [illegible] extra

cap. [illegible] 20, cap. qualiter 24. [illegible] de accusat. [illegible] 31. de simonia, cap. [illegible]

Si peccaverit 19. 2. q. 1. cap. accusatio [illegible] 16. 2. q. 7. tradit [illegible] Antagnatria [illegible]

tum [illegible] 9. cap. 1. n. 3. et cap. 4. n. 1. Thomas Sanchez [illegible] consiliorum cap. 2. [illegible] Barbosa de potest. [illegible] alleg. 112. [illegible]

nec [illegible] hoc statui [illegible] quippe denuntiatio potius ad correctionem, quam ad publicam vindictam [illegible]

[illegible] quoniam ad depositionem instituitur accusatio, [illegible] ad correctionem denuntiatio facienda. [illegible]

admonitus, et familiariter conventus [illegible] corrigere [illegible] crimen suum emendare [illegible] admonitio [illegible]

[illegible], docet hanc [illegible] Divus Thomas in 4. dist. 19. q. 2. art. 3. [illegible] ad 4. [illegible]

n. 18. Amplius infertur [illegible] causam [illegible] et definitivam ad Romanum Pontificem expectare, [illegible]

[illegible] in cap. accusatio 5. cap. [illegible] 6. [illegible] 3. q. 6. cap. [illegible] 11. [illegible] 9. q. 3. [illegible] tradit [illegible] ab Antonio

[illegible] quoniam [illegible] dignitate, ut [illegible] a Romano Pontifice [illegible]

[illegible] expectare [illegible] videtur; [illegible] a [illegible] Romano Pontifice, [illegible] inferiori [illegible]

[illegible] manifeste probant [illegible] 3. q. 6. et in cap. [illegible] 6. q. 4. nec [illegible] ab [illegible]

[illegible] a Romano Pontifice [illegible] Trid. [illegible] cap. 6. in fine, tradit Dulcedo in praxi Canonica cap. 124. [illegible]

[illegible] exceptationum forensium cap. 169. n. 15. [illegible] Romanus Pontifex [illegible]

[illegible] 3. 2. c. 5. docet [illegible] in cap. [illegible] n. 2. et 3. [illegible]

[illegible] n. 9. et 27. de appellationibus, [illegible] cap. 2. de accusationibus, et [illegible] Barbosa de [illegible]

alleg. 112. n. 1. [illegible] nulla [illegible] =

n. 19. Verum adversus hanc doctrinam [illegible] in cap. [illegible] de accusationibus, et [illegible]

Denique 3. 6. q. 3. ex quibus aperte probatur criminales episcoporum causas [illegible] et definitivam ad Primatem [illegible]

ac Concilium Provinciale expectare, [illegible] ad [illegible] causas [illegible]

[illegible] decreta [illegible]

[illegible] criminales episcoporum [illegible] expectabat [illegible] privative [illegible]

[illegible] Concilio Provinciali cumulative, ita ut in Provincia Africana a quocunque [illegible] tractari possent [illegible]

episcopi accusati [illegible] cap. accusatus 3. q. 6. nec [illegible] cumulative iurisdictioni refragantur [illegible] capituli [illegible]

[illegible] Primatis [illegible] debuerat, [illegible] episcopo [illegible] namque [illegible] hic [illegible] excludi [illegible]

aliorum episcoporum, [illegible] tamen [illegible] dum in Synodo [illegible] vel [illegible] singularis praerogativa Primatis

[illegible] et simul in Synodo, alii autem [illegible] exercent [illegible]

[illegible] temperata [illegible] ita ut [illegible] aut Primas

[illegible] Pontifici definitivam [illegible] itaque [illegible] antiquo [illegible] in cap. [illegible] de accusationibus

[illegible] et [illegible] cap. denique 6. q. 3. [illegible] docuerunt [illegible] causarum criminalium episcoporum [illegible]

ad Concilia Primatesque expectare, [illegible] refertur [illegible] Milevitani, quod extat [illegible] 1. [illegible]

[illegible] Concilio [illegible] hanc [illegible] Quaranta [illegible] de [illegible]

4. Atque quamvis [illegible] illa [illegible] habere debet erga [illegible] episcopum [illegible] quia [illegible] poterat [illegible] sine venia [illegible] vocari [illegible] sicut [illegible] in iudicium vocando, [illegible] sine admonitione [illegible] veniam habeat [illegible]

[illegible]

... Molina [illegible] ... n° 1. Fachineus [illegible] ... Henriquez [illegible] cap. 8. Henrici [illegible] qui de delegato [illegible] ... tractat, alios [illegible] Barbosa [illegible] ... n° 2. [illegible]

n° 21.

Cuius doctrinae ratio haec est, quoniam iudex delegatus potestatem [illegible] Romano Pontifice [illegible] ibi ad iudex a iure delegatus vices eius gerit, qui est supremus [illegible] iudex, cap. cuncta per mundum 17. q. 9. [illegible] qui tradit Sebastianus Caesar [illegible] de Constit. [illegible] verum est [illegible] decisis [illegible] ... [illegible] tanquam delinquentem [illegible] cap. [illegible] ... [illegible] Princeps Secularis cap. pastoralis [illegible] ordinarii cap. [illegible] ... qui mandatum [illegible] ... delegati [illegible] gerat, merito maior quam Ordinarius [illegible] habetur [illegible] Ordinario executioni mandaretur sententia lata a delegato [illegible] cap. [illegible] de delegatis [illegible] ... repugnare [illegible] cap. [illegible] ... Alexander [illegible] ... Barbosa [illegible] ... plura alia [illegible] ... nos [illegible] pergentes.

n° 22.

Progreditur noster Pontifex [illegible] Sacerdotale, interdicatur ministerium [illegible] ... iudex delegatus debet observare [illegible] iudici ordinario [illegible] facere debere [illegible] ... ut [illegible] ingressus [illegible] interdicatur [illegible] statuitur in [illegible] vel Sacerdotale officium interdicat [illegible] ... docent Felinus et [illegible] ... Navarrus in manuali cap. [illegible] n° 20. [illegible] ... n° 1. Avila de censuris [illegible] ... Suarez [illegible] ... hoc n° 16. [illegible] est interdictus [illegible] ... appellat [illegible] ... Sandecina [illegible]

n° 23.

Secundario, quando debet [illegible] interdicat, seu officium, non tamen Sacerdotale officium interdicat [illegible] absolute [illegible] ... qui expectant ad [illegible] ministerium Sacerdotale [illegible] ... cum Sacerdotali [illegible] ... Illud [illegible] ... interdictus [illegible] ... Avila [illegible] ... appellatione [illegible] ... in hac [illegible] ... Molinus [illegible] cap. [illegible] n° 2. [illegible] cap. [illegible] n° 27. [illegible] deri potuerit.

[illegible]

[illegible]

Suspensioribus [illegible] executi Pontificalis officij [illegible] frequenter interdicti, vel suspensionis [illegible] incurrunt [illegible] namque expresse aduersus illa [illegible] decisionibus, ita [illegible] in censuris disp. 25. sect. 22. n.° 5. et 6. =

Pergit Victor Alex.er quartus et ait, ac deinde ab officio suspendantur, [illegible]

n.° 25.

Sequenter grauetur censura ecclesiastica [illegible] ab officio [illegible] executionem muneris atimplemento [illegible] maiorem excommunicationem [illegible] debet [illegible] itaque haec suspensione ab officio ampliatur [illegible] prolata sine dubio [illegible] Sacerdotalis [illegible] exercitij [illegible] officij [illegible] administratione [illegible] haec pena [illegible] neutiquam potest exercere [illegible] ut exercitium cuiuslibet officij ecclesiastici [illegible] Barbosa n.° 10. Nec sine [illegible] adhoc ut ille [illegible] facere debet [illegible] Suspensionis effectus [illegible] antiquiores [illegible] Suarez [illegible]

n.° 26.

Postremo [illegible] ecclesiastica censura [illegible] Censuras ecclesiasticas [illegible] ab Sacramentis participatio [illegible] politica [illegible] Cornelio Baluo [illegible] excommunicatio [illegible] fidelium [illegible] Suarez de censuris disp. 6. [illegible]

n.° 27.

Videtur probari iudicem delegatum [illegible] Sahagun [illegible] delegati n.° 15. [illegible] Mendoza [illegible] qualiter [illegible] extendenda, et qualiter [illegible] remittantur [illegible]

8 1p.

n° vlt°.

Postrema nri tex.s verba hec .., nisi fortasse aliter fieri suaserit nimia contumacie protervitas, sine culpa. in
his namque proponitur quidam limitatio ad ordinem, et modum procedendi, de quo in nro tex.u, ita ut sensus sit
c. Vbalth., et penas eis imponendas p[er]mitti posse ordinem assignatis, si nimia fuerit eorum contumacie protervitas
qd accidere pot, si debitam modestiam non servent, et iniurias, vel contumeliosa verba in iudicem delegatum
qui superior e respective illius cas protulerint, xta tex. in cap. dilectus 11. de appell., si g iudex huius nri decreti
servata forma tantum excomunicet, vel suspendat eos, de rigore valet, et tenet sn.a licet debeat reprehendi tale faciens
multo magis qd adest aliqua causa ob quam ordo prescriptus immutetur; itaque la adstante iudex delegatus, tequm
in nro tex.u credenderit excomunicatus, qui maior e pena, et in posteriori verba addita, prius imponere, initium sumendo
a fine p[er]mitt. proxime ipsius id expedire indicans, et hoc e qd significant predicta posteriora nri tex.s verba quorum
explicatio hoc modo accipiente docent antiquiores DD, et per los Barbosa in nro tex.u n. 2. cum seqq. = Et hec de huius cap.
Clementinam huius tex. explicatio, utinam cedant in Dei Omnipotentis laudes, et utilitatem quae habentis. =

[illegible]

... nulla [illegible] personam [illegible] episcopi, [illegible] Suspensionibus [illegible] executionis Pontificalis officii, vel frequenter interdicti, vel suspensionis [illegible] incurrunt [illegible] ... negatur [illegible] nam si expresse adversus [illegible] ... nostri [illegible] ... ita explicat [illegible] de Censuris disp. 15. sect. 22. n.° 5. et 6. = F.

N.° 25.

Pergit Auctor Alex.[i] quartus et ait, ac deinde ab officio suspendantur, [illegible]

Consequenter aggravatur censura [illegible] ... ab officio [illegible] suspensi et censuram [illegible] omissio [illegible] in muneris adimplemento [illegible] excommunicatis [illegible] ... in [illegible] ecclesia, et sacerdotalis ministerii exercitio: itaque hac suspensione ab officio simpliciter, et absolute prolata sine dubio [illegible] ... sive essent [illegible] officii, sive iuris dictionis aut cuiuscunque alterius administrationis [illegible] ... excepta [illegible] ... et iudicata hoc [illegible] ... ut exercitium cuiuslibet officii ecclesiastici [illegible] ... facultate [illegible] ut omnia, quae alias poterant exercere, comprehendat tradita a Barbosa n.° 10. Nec sine ratione [illegible] ... pena [illegible] ... et [illegible] ... suspensionis pena [illegible] ... facere debet, [illegible] Suspensionis effectus [illegible] ... n.° 8. [illegible] n.° 5. et alii antiquiores, quos sequuntur [illegible] ... et traditis a [illegible] de Censuris [illegible] Suarez [illegible] Sayrus [illegible] =

N.° 26.

Notetur primo, quando [illegible] ecclesiastica censura [illegible] Censuras Ecclesiasticas [illegible] ... separatio, vel segregatio a communione, ut [illegible] ... n.° 176. [illegible] ... Cornelio [illegible] ... excommunicatus [illegible] ... fidelium communio [illegible] ... orationis, et suffragia [illegible] et sacramentis participatio [illegible] politica communio [illegible]

[illegible]

[illegible]

Ita tamen ... Ecclesiasticas ... Respond. ... nullo modo edictas pignorationes esse admittendas maxime in personis Ecclesiasticis, et contra facientes districte esse puniendos, ita, ut qui edictas pignorationes exercentes, aut illas admittentes nisi intra mensem, eas revocauerint, excomunicandos esse si autem uniuersitas permisserit, Ecclesiastico subiecenda esse interdicto hactenus decisio sed ante aliqua circa litteram premitt. ... est. ... reprehensalias ... et postea dicemus ... tangam grauibus legibus - ... ex eo quod enim prohibetur graue legibus dicitur, ... in distinctione inter legem, iure naturae et iure Ciuili, ubi appellatione legis ... intelligi ... Diuinus quod antiquum est iure naturali succedunt ... personis Ecclesiasticis qui comprehenduntur non solum Clerici in maioribus verum etiam in minoribus, religiosi ... et alii personas quae ad Ecclesiasticum statum ... possunt ... maiorem ... partem consumpserunt, Monachus et Iacobus a Canibus ... succedunt ... consuetudini, quae ... consuetudo ... quia repugnabat ... et Ecclesiasticae libertatis ... succedunt ... ibi reuocauerint infra mensem ... non solum ... pignorationes, verum etiam ... si eas non reuocauerint intra ... mensis, ... autem est excomunicatio ... sona singularis est si vero Ciuitas interdicto subiicienda, ob rationem traditam a Pontifice, in ... de ... excom. in 6°. Ex qua decisione talis deducitur assertio represalias ... personas Ecclesiasticas concedi non debent, ... legibus prohibitis sint. ... in ... de ordine Cognit. ... de pignor. ... exhibita ... ex ... libro ... de execut. ... lib. 12. ... ne uxor ... auth. ... et ... ut non fiant pignorationes ... de iure ... tit. ... libro ... de iure, Longob. ... illustrant. Iacobus de Can. Mart. Laudens. Bart. ... in ... nullus ... in nou. ... ex rescripto de iure iur. ... et in ... de pignor. Don. lib. ... ult. Duar. ad ... ne uxor. ... leges de origine iur. ... ex ... Othmanus ... Clarigatio ... in ... n° 176. ... Balduinus ... theologi ... Thom. 2.2. q. 40 artic. 1. ... n° 95 ... ex ... Grotius de iure belli lib 3 ... 20. ... miscel. ... assert. 75 ... reprehensaliis ... lib ... Mathei ad ... de pignor. ... de ... ex Canonistis Couar. in reg. peccatum ... Petrus Greg. lib. ... Syntag. cap. 8. Iulius ... de indulgen. ... Barb. in Colectaneis ad ... Innocen. ... ad ... pignor. ... ex practicis Matienço in l. ... 17. lib. 5 recop. Castillo ... cap. 41. Costa de remed. rem. ... Azeu. ... Perez in l. 6. ... 26. lib 8 ordinam. Cuualg ... resolut. Casu 122. Gutierres 2 Canon. ... Solorzan. lib 3 de iure ind. cap. 7. n° 36. =

Sed hęc assertio et ... decisio ... docet represalias sive pignorationes ... iure Diuino, naturali et Canon. repugnare, ... reditur ... iure naturali Diuino Ciuili et Canon. represalias ... mittuntur ... iure Diuino ... probatur authoritate ... Mathei ... ordinarii

Marginal notes: 1, 2, 3, 4, 5, 6, 7

L. ... de fin. ... Neapolit. tit. de represaliis ...

Marta de iuri... tit. ... Casu 41

... de iure ...

ubi assecitur quod regimen auferri debet a Rege n. facienti iustitiam et dari alteri qui gerere [illegible] Rex iusti dene et licite uti poterunt. repressalias [illegible]
etiam probatur apud Iosue c. 6. et lib. 2 Reg. c. 24 et aliis relatis a Grationo [illegible]
naturali etiam iure repressalias [illegible] iure naturali quod appellatur ius gentium
[illegible] populi [illegible] ius gentium glosa [illegible]
[illegible] in dicto [illegible] gens aliqua. [illegible] iure facere [illegible]
[illegible] qui bello occasionem dedit [illegible] c. 1 et [illegible] 2. 4. 2
[illegible] iure naturali repressalias contrarium non sit, accedit
[illegible] [illegible] posita [illegible]
[illegible]
[illegible] iure civili [illegible]
mitti [illegible]
[illegible] dices [illegible] et ipsis ius dicere [illegible]
[illegible] cuius [illegible] capere, [illegible]
à Rege debitur et si Rex non possumus licebit nobis met ipsis ius dicere, et aliis ipsius
Regni occupare et detinere donec nobis satisfactum sit. exemplis etiam facile [illegible]
[illegible] probari potest siquidem Lazius illis probare intendit iam à temporibus [illegible]
in usu fuisse. et probat ex Tito Livio lib. 8. ubi refert [illegible]
a Senatu fuisse ut trans Tiberim [illegible] et [illegible] clarigatio esset id est repressalia
ut infra dicemus. nec solum apud Romanos verum etiam apud alias nationes repressalias receptas fuisse facile probatur. nam apud Athenienses lege Attica vulgo
nominata. cautum erat ut si quis ex Atheniensibus occisus esset a cive alterius civitatis
et Rector ipsius civitatis illum tradere noluisset liceret consanguineis occisi tres cives
ipsius civitatis detinere, donec omicida traderetur, quod ius Androlepsiam vocabant
huius legis meminerunt Demostenes. Orat. 2 Iulius Pollux lib. 8 c. 2. et [illegible]
et aliis Graecis interpretibus referunt Lazius Iudeus [illegible] et [illegible]
igitur iure civili repressalias non sint prohibitae = iure etiam canonico permissum esse parti, cui
iustitia denegari non posset. licere res etiam alienas occupare videtur probari ex c. 2. de or-
dine cognitionum quod iure canonico etiam repressalias permissum sit, quo argumento [illegible] Iacobus a Canib.
ubi [illegible] repressalias omni iure permissas esse =
2º. adversus nostram [illegible] ibi ne alius pro alio praegravetur. ubi innuitur tam in causa
pecuniaria, quam in causa etiam criminali non posse, quis pro alterius debito teneri. obstat
textus in [illegible] ex rescripto de iure iur. ubi proponitur. Abbatem monasterij [illegible]
sis pecuniam mutuam accepisse, et conventum esse, ut certa die pecunia solveret. et [illegible]
ad securitatem conventionis quosdam monachos suos obsides dedit et si forsan monachi in
obstagio desedissent fideiussores dedit virum et eius uxorem, qui omnes iuramento se obstrin-
xerunt ad solutionem praedictae quantitatis et iubetur, ut non solum Abbas verum etiam monachi
teneantur servare iuramentum et in obstagio esse, quod si monachus pro debito Abbatis
pignori dari potest [illegible] iure canonico inspecto alius pro alio praegravari, et pignori
subiici, =
His non obstantibus vera est nostra assertio, sciendum est. repressalias dici,
quod alter pro alterius debito vel delicto capitur eiusve res pignorantur. cuius
nominis etimologia barbara est. adulterata prohibent [illegible] ut docet [illegible]
[illegible] lib. 3 c. 42. Latine vero pignorationes rectius dicuntur. cum nomen sit generale com-
prehendens omne quod pignori accipit, apud Gallos appellatur ius Marcharum quoniam in li-
mitibus regionum saepique exercentur. ut docet [illegible] [illegible] elegan-
tiores enim scriptores post Ermolaum Barbar. non repressalias sed clarigationes dici [illegible]
timant Budeus [illegible] Turnebus 21 adversa [illegible] Renatus Copinus lib. 3 domanij
c. 21. [illegible] subtilit. c. 17. id quod est repressalia, opignoratio, clarigatio, ius
marcharum, et androlepsia, procedunt nationum nullo autem iure permissum [illegible]
[illegible] vel nec divino, nec naturali nec civili, aut canonico non divino quia ex eo,
pena non debet egredi suum autorem. nec inocens debet luere penam nocentis iux-
ta Ezechielem c. 18 versu 4. quia unusquisque portabit delictum suum iuxta Deuter. c. 24
versu 16. igitur repressalias, quia ex alterius pignore teneatur pro sequens repressalias iu-
ri divino repugnant. naturali etiam iure consentaneae non sunt, nemo enim iure

[illegible] alieno nemo tenetur, nisi [illegible] successor est. Unde Imp. Zeno [illegible] [illegible] ut pro alienis debitis alii molestentur, et naturali [illegible] [illegible] debito et malef. [illegible] [illegible] [illegible]

[illegible]

[illegible] peruniai [illegible]. [illegible] [illegible] de [illegible] [illegible] teneri. Deinde nam [illegible] adesset iudex competens. [illegible] de [illegible] iust. [illegible] superior [illegible] [illegible] Principi auth. [illegible] applicatis, [illegible] de quibus, et si represaliae permitterentur liceret unicuique sine iudice se vindicare, contra [illegible] ut nemini liceat, etc. [illegible] ratio iuris quia non adiret iudex debitoris [illegible] aut bona propria manu quis occuparet. et diceret sibi ius cum legum [illegible] sit ita, ut nihil manu. nihil proprio agatur impulsu, ut ait Cassiodorus lib. 4 epistola 10. ibi ad id reperta est legum salutaris reverentia, ut nihil manu, nihil proprio ageretur impulsu, illustrat hanc rationem et represaliarum prohibitionem Aurelius Cassiodorus lib. 4 Var. Epist. 10. ibi quid enim intra iura publica privatis odiis licentiam dare, quam enim a civilitate discessione. per tranquillitatem [illegible] stabit [illegible] termineretur. Provincialis itaque Campaniis sugestione [illegible] non nullos neglecta temporum disciplina, ad pignorandi se studia transtulisse. his multo asserviora iungentes alienis debitis ad solutionem alios trahit. Omni [illegible] persuasionis errore dividuntur, cum Germanus [illegible] obligatus patrnus [illegible] heres expuitur, uxor maritalibus debitis nisi successionis vincula non tenetur. et audacia, ad solutionem trahit extraneos, cum absolvant iura coniunctos. Specialis etiam ratio [illegible] in eo [illegible] [illegible] cum [illegible] et statuta laicorum non ligent ecclesiasticas personas [illegible] in ecclesiarum [illegible] de constitutionibus, nec consuetudinibus laicorum ecclesiasticae personae adstringantur, aut. [illegible] aut. cassatis de sacros. eccles. in [illegible] constit. aut consuetudine. introductum esset, ut quis pro alterius debito, et delicto teneri posset tamen respectu personarum ecclesiasticarum, simile ius observari non poterat ex defectu iurisdictionis recte [illegible] in [illegible] textu decreverunt. represalias concedentes, aut exercentes in ecclesiasticas personas, et intra mensem non revocantes excommunicandos esse, quae excommunicatio comprehensa est in censuris Bullae Coenae, ut refert Marta [illegible] casu 47. et si non princeps sed respublica predictas represalias permisserit, quia respublica et universitas excommunicari non potest interdicto subiicienda est, ut similiter deservitur in Clementina de immunitate ecclesiarum, Deinceps quia in ecclesiasticis casibus represaliarum contingere [illegible] potest cum et si admittantur in casu quo iustitia [illegible] non potest a superiore ob defectum alterius superioris [illegible] ratio in ecclesiasticis evenire non potest et etsi iustitia [illegible] non possit ab ipso Episcopo superiore potenit [illegible] ab Archiepiscopo, sive a Romano Pont. [illegible] et si respectu laicorum iustis [illegible] causis represaliae admitterentur tamen respectu personarum ecclesiasticarum nullo modo admitti aut exerceri deberent =

Nec dubitandi ratio supra aducta, refragatur [illegible], ut supra probavimus non solum iure divino verum etiam naturali et civili represaliae adstantur, nec obstant [illegible] in contrarium allata non [illegible] ex Divo Matheo quia [illegible] propter peccatum Principis non facientis iustitiam regnum de gente in gentem transferatur non tamen id [illegible] [illegible] auth. nec inde [illegible] ob defectum iustitiae regnum alienum [illegible] = nec exempla aducta, veteris testamenti [illegible] [illegible] [illegible] [illegible] [illegible] Principum, aut ipsorum [illegible] dominus permissit aliena [illegible] et regna in alias nationes transferri, quod non contingit in casu represaliarum [illegible] de quo in nostro [illegible] = Nec quod dicebamus in re [illegible] [illegible]

[illegible]

... obstagio dotis pecunia ...
monachos teneri ...
... [illegible] ...
... Vasq. ... nec ... solutio sustineri potest ... alleg.
monachi ... in obstagio et iuramentis tamen de re illicita ...
n habeant quare hic solutis omissis ... eius ...
ibi specialiter ... monachos ... Abbati debet in omnibus licitis et honestis ... ad ordinis ... servandi ... quo non
... ea ... ad necessitatem monasterii ... spectant ... de postulatio docet late
te ... Vela ... dissert. 35 n. 1[?] ...
monasterij ere alieno gravati remedij ... qui ... a ... petere
... Abbas monachos in obstagio ... dy pecunia n solvitur ...
... qm Abbas in illis monachis habet ita Vela ut s. ... lib. 2 ...

Principes, ... adversus ... in ... dominum n. 2, 23 ... ubi ...
... causa iusti belli ... bellis indicatur ... et intra ...
... posse ... Civitatis ubi est ille ... n potest bellum indicere, et bona
persona a ... impune. ex qua ... deducitur ... esse represalias
... posse eas ... aliqua ... et abalege
... sanctione bona aliorum ... recte ... aliter ...
... Broncorst. ... a ... represalias generaliter
... indistincte permitti posse adducunt etiam ... vulgare vel ... exp
ceptio firmat regula in contrarium ... privilegio ... est studiosis scholastici ut a represalias excepti sunt in
aut. ... ne filius ... et ecclesiasticis personis in nostro ... de
... represalias ...
alij vero negant represalias ullo iure permitti ex ratione et aut ...
adductis ... placet ... Vuisenia ... qui
asserit represalias tunc permitti posse cum et bellum legitime indi
citur vel ad limites ... Princeps ... bellum indicere posset
represalias permittat, et, ut iustis ex causa ... in re magna aut
iniuria atroci ... illata ... potest Princeps, qui bellum pu
blicum indicere potest, indicat similiter represalias, que nihil aliud
sunt, quam bellum privatum unde ... represalias
... personis ecclesiasticis ... ex causis permitti possunt
represalias inter laicos, ut ... ad ecclesiasticas personas hoc
... ecclesiasticis personis legibus, aut statutis laico
rum ... concurrentibus ... bellum ... probat
Principis, et iusta causa n repugnant represalia iure naturali. Ut probat
Vuisenia ... s.a

[illegible] electione [illegible] sive illius fraude asertione videlicet in priorem seu Abbatem [illegible] expresse professum nedum posse sed [illegible] ministra [illegible] territ [illegible]

[illegible] decreta [illegible]

[illegible]

[illegible] Clementina [illegible] quia regulares de supplend. negligent. prelator. Concilii Tridentini [illegible] cap. 10 [illegible] de regularib. [illegible] confirmant hanc nostram preillatam assertionem preter ordinarios in predictis iuribus repetentes scilicet [illegible] tes Cardinales Zavarellus [illegible] Hostiensis Bonifacius de Vitalinis Petrus [illegible] rius lib. 2 partit. iur. canoni [illegible] 9 cap. 3 et ibidem lib. 19 sinta mat cap. 18 et ibidem Petrus Gregor. lib. 1 de rescript. cap. 4 n. 5 et seqq. et in tractatu de elect. lib. 1 n. 7 preter Covarruvias in cap. 2 de testam. n. 12 Marsilius de irregularitate lib. 2 cap. 1 Anastasius Germonius lib. 3 de sacrorum immunitat. cap. 9 Iacomutius de veter. clerici monacho [illegible] 2 lib. 2 cap. 4 de bap. [illegible] de ecclesiast. Ierarchia disput. 12 Antonius Augustinus in epitome Iuris pontificis lib. 9 [illegible] 45 Barbosa de Iur. ecclesiastico lib. 1 cap. 17 n. 32 [illegible] Monac. [illegible] 3 lib. 4 epistol. 2 Pater Franciscus Suarez tomo 3 de relig. [illegible] cap. 16 n. 2 et seqq. et [illegible] 4 de relig. lib. cap. 3 n. 18 et seqq. Ioannes de Azor 2 p. de instit. moral. lib. 3 cap. 26 et aliique lato calamo congessit Augustinus Barbosa in Colectaneis ad predicta iura —

Dubitandi ratio

Ceterum licet nostri textus asertio ut pontificum responsis et interpretum autoritatibus corroborata atque munita existat nonnulli tamen insurgunt scrupuli [illegible] ancipites reddentes quiquidem dubitandi ratione sunt michi proponendi et inprimis fortiter oppugnat illam nostre assertionis partem statuentem absque professione in priorem seu Abbatem eligi monachum non posse et si aliter fiat electionem nullam reddi hec sequens et bene cordata iuris ratio nempe inter modos tacite professionis legitimos unus et precipuus reputatus per usum eorum actuum que professorum sunt propri[a] [illegible] si illi actus fuerint gesti in anno novitiatus et cum habitu tantum novitiorum ut animadvertit Suarez to. 3 de religio. lib. 6 cap. 19 et ex prese probatur ex elegant. necnon difficili concilii Tiburiensis decreto relato in cap. vidua 4 de regularib. ibi Vidua si sponte velum conversionis quamvis non sacrum sibi imposuerit et in ecclesia inter velatas oblationem Deo obtulerit velit nolit sanctimonialis habitum ulterius debet habere licet sacramento firmare velit eo tenore velamen sibi imposuisse ut deponere posset ex quorum verborum serie satis apparet viduam profiteri eo quod ipsa actui se inmiscuit professionem exigenti et qui soli professis conveniebat quod firme suadetur ex textu in cap. 1 de regularib. in 6 et textu in cap. unico de voto in 6 [illegible] simonach[us] nondum professus electioni in priorem seu Abbatem sui ipsius consenserit seu in administrationem [illegible] et concretato consensu censetur professus et per consequens non

debet talis electus ad administratione seu priorem arceri [illegible] electionis esse simul in priore eligitur [illegible] esse professo [illegible] post professionem [illegible]

[illegible]

[illegible] ipsorum [illegible] ... [illegible] ... esse [illegible] ... [illegible]

[illegible] ex difficile sententiis [illegible] ... [illegible] ... nialem in [illegible] electus [illegible] professus [illegible] ministerio [illegible] ... ipsum [illegible] profiteri et [illegible] talis professionis nedum posse [illegible] ipsa non [illegible] habitu professorum idem probatur de Monachis [illegible] rio lib 3 epistolar epist 22 quo loci [illegible] in Abbatem seu priorem [illegible] vicarium secularem aut diaconem vel subdiaconum licet electionis tempore professio [illegible] contingerit quo absque hesitatione est procerto asseverandum nedumquam necessarium esse [illegible] esse professum ad hoc ut legitime in priorem assumatur sed sufficere professionem [illegible] electionis tempore factam ad validitatem electionis et nec ex defectu professionis ab officio seu administratione arceatur electus quo minus recte in nostro [illegible] contrarium sanctiones statuens Clemens 5 necessariam esse professionem antea emissam ut in priorem aut administrationem quisquam assumi [illegible] ex [illegible] legitime [illegible] electio teneat ==

i[illegible] ratio

sed ut has [illegible] difficultates [illegible] nostrum quae [illegible] illustremus [illegible] oportet sint priores et quorum cognitione facilime [illegible] de quibus in presentiarum [illegible] priores alij sunt seculares regulares alij seculares vero sunt persone principales in collegiatis ecclesiis [illegible] presunt canonicorum collegio ut colligitur ex subscriptione [illegible] de maioritate et obedientia sunt etiam dignitate prediti et habent iurisdictionem ordinariam [illegible] et pariter animarum curam ut observant Suarez [illegible] [illegible] lib 3 cap 20 [illegible] [illegible] ecclesiastica [illegible] disp 22 regular [illegible] in duplici reperiuntur differentia alij sunt claustrales conventuales alij [illegible] les sunt qui post abbatem seu priorem principalem eidem conventui preficiuntur [illegible] [illegible] et opera eorum intra claustrum velut priores vicarij [illegible] gubernant de quibus loquitur [illegible] cum ad monasterium [illegible] monachus et Clementina [illegible] descript conventuales vero sunt qui celsis regularibus conventui [illegible] preficiuntur ita ut nullus ibi alius dignior [illegible] superior sit de quibus etiam agit clementina 2 de [illegible] cript et [illegible] et hi dignitatem propriam gerunt [illegible] inde iudices delegati [illegible] [illegible] possunt + non ita claustrales priores hinc etiam [illegible] ut conventuales ab officio

-- [illegible] Clementina [illegible] 2 de regularibus [illegible] [illegible] religione --

+ cap 2 de rescriptis

[illegible] nisi manifesta et rationabilis causa [illegible] vel si in [illegible] aut tale aliquid egerit pro [illegible] principiis [illegible] vel si [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

Prior autem per [illegible] [illegible] tempore et propria congregatione [illegible] [illegible] ut [illegible] Divus Gregorius lib. 7 epistolarum [illegible] ibi Abbatem non [illegible] [illegible] monastica communi consensu congregatio sibi praeesse et [illegible] ordinare cui consonum est eiusdem Divi [illegible] [illegible] lib. 7 epistolarum epistola 18 ad Ravennatem Episcopum ibi De [illegible] quemcumque congregationis monasterii eligatur ex nisi [illegible] congregatione quem sibi propria voluntate congregatio elegerit. Vetustissima autem consuetudini fuit ut in [illegible] [illegible] te creando consensus fundatoris accederet nisi hanc praerogativam [illegible] [illegible] [illegible] [illegible] statuerunt sancti patres in concilio Toletano 9 can. 2 decernimus ut quamdiu [illegible] [illegible] [illegible] in hac vita superstites extiterint pro [illegible] locis curam habeant [illegible] [illegible] atque rectores idoneos in eisdem locis ipsi episcopo offerant ordinandos [illegible] auctoritate fundatoribus honoris et gratitudinis causa delatam reservarunt sibi in[illegible]peratores reges ac principes supremi fundatores heredes et [illegible] legere et in[illegible] [illegible] sequentes regum et imperatorum consensus requisitus in electione praelati [illegible] [illegible] huic consuetudini consonum est privilegium quod monasterio [illegible] [illegible] concessit Divus Gregorius de quo fit mentio lib. 12 epistolarum epistola 20 ibi [illegible] statuimus inquit ut obeunte Abbate non alius ibi quacumque [illegible] [illegible] [illegible] nisi quem rex eiusdem provinciae cum consensu monachorum secundum timorem Dei elegerit ac providerit ordinandum. [illegible] postea reges hac auctoritate monasteriis [illegible] [illegible] clericos seculares seu [illegible] laicos praefecerunt cum evidenti [illegible] [illegible] [illegible] permitte fuit eis interdicta talis praerogativa de [illegible] [illegible] [illegible] extant nonnulli canones in concil. [illegible] vel Parisiense quam [illegible] [illegible] [illegible] sit ab ecclesiastica disciplina laicis seu clericis secularibus huiusmodi administrationes seu prioratus tribuere potest colligi ex textu in cap. [illegible] 18 q. 2 ibi [illegible] inquit diaconus ceteros cuiuscumque ordinis clericos et abbates [illegible] monasteriis non permittas. praeterea severe fuit interdictum quod alias frequentius [illegible] vel saeculari monasteriis monachorum praeficiantur existimat oportere eligendum [illegible]

regum

eligatur in priorem [illegible]

[illegible] presidentem esse [illegible] annum [illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] episcopus eligatur et presbyter [illegible] quae [illegible] [illegible] tractatu huius [illegible] [illegible] Hiena [illegible] in [illegible] Cassino neque quisquam debebit induere vestem [illegible] [illegible] non sunt coniungendi in uno officio homines diversae professionis [illegible] et confusionem generet [illegible] Deus qui [illegible] et honestas clericorum [illegible] quia etiam ratione naturali non congruit ut homines dispares [illegible] vel habitus simul in eisdem monasteriis [illegible] [illegible] Concil. Hispalense 2 can. 9 ibi [illegible] decebat et hoc confirmat [illegible] officio non debet dispar esse [illegible] infra subdit [illegible] rationem [illegible] et coniugi non possunt quibus et vota et studia diversa sunt [illegible]

Vidi hec premissa scripta que remisi vobis, dico aliquid [illegible] ex premissis [illegible] parte [illegible] [illegible] libri [illegible] quatenus [illegible] et [illegible] [illegible] [illegible] et [illegible] misive =

clericus secularis [illegible] non poterant eligi in priorem [illegible] 38 [illegible] Novitius quia ut prior [illegible] induit habitum [illegible] ante quam fieret discipulus [illegible] [illegible] in regula ordinis [illegible] instructus [illegible] in magistrum 49 [illegible] monachum [illegible] [illegible] apostolica [illegible] regularis [illegible] [illegible] divini obsequii [illegible] monasterii [illegible] [illegible] ante [illegible] primum probationis [illegible] Monasterii [illegible] Gonsalvus [illegible] bi annus et ut animadvertendum [illegible] non esse ut aliquod certum tempus [illegible] fessionem [illegible] per ipsam professionem [illegible] persona capax [illegible] [illegible] [illegible] eligatur aliquis repente professus ad [illegible] [illegible] ut illa iam vacante ex seculari [illegible] religiosus [illegible] ut [illegible] promoveatur hoc adeo est in iure reprobatum ut talis electio irrita [illegible] officii [illegible] etiam in eo casu in quo electus paratus erat [illegible] se quod nulla fuisset ad id ambitione inductus ut dicitur ibi quia [illegible] [illegible] subsequta sunt ostendit quod talis taliter non potuit eligi in priorem [illegible] non professus postulari in priorem [illegible] Monasterii [illegible]

[illegible] [illegible] [illegible]

textus difficilis textus in cap. 1 de [illegible] in [illegible]

vide [illegible] in cap. [illegible] 38 de electione et [illegible]

textus [illegible] cap. [illegible] 13 de electione

+ para la repetición de la clementina si vos de censibus, se ha de ver las razones de dudar que tengo en mi repetición de inmunitate ecclesiarum, desde el nº 2 hasta el 1, = y para premissos desde el nº 19 hasta el 28 = y esto todo bien es visto, y mas [illegible] de lo que se [illegible]; la especie de la clementina se declara [illegible] de la terminación [illegible] están en el nº 2 = luego la razon de dudar de nuestro texto que no estan los clerigos obligados a pagar tributos, ni gabela ni pedagia, que tributos son estos [illegible] en la glosa del capitulo [illegible] que [illegible] vocablo pedagia quiere [illegible] estos [illegible] estaban [illegible] por el capitulo quamquam de censibus in 6º [illegible] Clemente [illegible] clementina [illegible] como dice [illegible] en el [illegible] a esta clementina [illegible] =

+ diziendo primero que omito la question si es derecho divino o no la inmunidad de la yglesia [illegible]

para premissos de esta clementinas hasta desde el nº 19 hasta el 29 [illegible] de los tiempos =

para la clementina unica de inmunitate ecclesiarum, desde el nº 2 hasta el 1 son razones de dudar y para premissos desde el nº 19 hasta el 29 = refiriendo lo primero que omito la question an sit iure divino vel humano inmunitas =

8º = [illegible] para esta clementina [illegible] las [illegible] al capitulo [illegible] de inmunitate ecclesiarum

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] Beneficio [illegible]

[illegible] 15 [illegible]

[illegible]

[illegible]

[illegible]

[illegible] in hunc modum [illegible] [illegible] viva [illegible] [illegible] [illegible] [illegible]

[illegible] quaesitis fuit [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] hoc [illegible]

[illegible] [illegible] [illegible] [illegible] respondet [illegible] Clemens [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] pro [illegible] [illegible] in ea [illegible] [illegible]

[illegible] [illegible] [illegible] Clemens [illegible] [illegible]

[illegible] [illegible] ex [illegible] et [illegible] [illegible] et [illegible]

[illegible] nominatos [illegible] [illegible] [illegible] [illegible]

[illegible] subsecuta, [illegible] protesam et hanc excommunicationem [illegible]

Noster Clemens ad versus omnes [illegible] sint privilegiati, [illegible] [illegible]

~~Hoc est~~ Sic deducitur elucidanda ad illustranda conclusio excommunicatos

Tali sunt ~~repelientes~~ ~~excomunicati~~ tempore inter dictis in [illegible] [illegible]

lis [illegible] sacris in casibus a iure non per missis et qui scienter [illegible]

excommunicatos publice et manifeste [illegible] [illegible] in [illegible] probant ea [illegible]

hoc est a clerico verbi verborum ambitu plura comprehendens [illegible] cap. ~~[illegible]~~ de rer. cap. [illegible]

in cap. ad monasterium de stat. monac. cap. [illegible] de consecrat. Eccles. vel altaris ~~cap. [illegible]~~

[illegible] cap. constituitis de consecrat. [illegible] de [illegible] et rem.

~~24 [illegible]~~ cap. [illegible] de privilegiis in decretalibus cap. 2 de haereticis in 6. cap. [illegible] de [illegible]

cap. ad haec de privilegiis [illegible]. cap. [illegible] 8 de sent. excommunicationis cap. [illegible]

in 6. cap. [illegible] cap. [illegible] de iure decretis probat primo [illegible] in cap. [illegible]

de sent. excommunicationis in 6. [illegible] cap. [illegible] 13 [illegible] cap. 1 [illegible] 24

11 [illegible] 3. cap. [illegible] cap. [illegible] cap. 2 de omit. lib. 6. cap. 2 et 4 de estat. mona.

[illegible] cap. placuit 23 [illegible] cap. 2 ~~[illegible]~~

~~probant et [illegible]~~ hanc ~~[illegible]~~ Conc. Coloniense can. 81 Conc. Arelat. 6. sub [illegible]

Conc. Lateranense Canone 49. Conc. Coloniense can. 97 ~~[illegible]~~ Con. [illegible] sub

Mag. can. 21 Conc. [illegible] primus can. 97 [illegible] 12 Conc. Trid. sess. 25 de reformat.

[illegible] 3 anno 1148 apud Baronius tomo 12 Conc. Trid. [illegible] probat lex 15 titulo 9 partita 1

cap. 13 et 23 cap. 13 de iure [illegible] probat lex 15 titulo 9 partita 1 illustrant praeter ordinarios

lex 8 titulo 13 partita 1 lib. 10 titulo 9 eadem par. 1 [illegible] 2 art. 12 et 13 Suarez de censuris

~~communiter~~ Angelus [illegible] in 3 part. [illegible] disp. 12 [illegible] 4 num. 3 Navarrus in

disp. 35 [illegible] per totum idem Pater Suarez disp. 12 [illegible] lib. 2 [illegible] cap. 13

manuali cap. 27 num. 137 Petrus [illegible] lib. 2 [illegible] ibi eius adiciones [illegible]

~~[illegible]~~ Covarrubias lib. 3 Variarum cap. 3 num. [illegible] Barb. in [illegible] lib. 3 [illegible]

[illegible] [illegible] de [illegible] casu 233 [illegible] 26 [illegible] [illegible] in

[illegible] [illegible] de [illegible] [illegible] 3 cap. [illegible] Hieronymus Rodriguez

103 idem Barb. de officio Parochi p. 2 cap. 5 per totum [illegible] lib. 1 de [illegible] partitio [illegible] cap.

[illegible] [illegible] lib. 2 p. 2 [illegible] Solorzano lib. 1 de [illegible] [illegible]

in suis resolutionibus resolu. 127 [illegible] [illegible] tom. 3 [illegible] 61 art. 3

22 Pater Manuel Rodriguez [illegible] [illegible] [illegible]

cap. ex [illegible] 11 cap. sacris 12 cap. [illegible] final. de rer.

[illegible]

[illegible] Valisburense pro [illegible] suo [illegible] Archiepiscopo anno Domini 1418

[illegible] lib. 1 parti [illegible] 415 [illegible] [illegible] [illegible] [illegible] eccles. [illegible] 16

[illegible] 6. [illegible] titulo 18. lib. 4 [illegible] recopilationis

5

Ita Ad institutiones Moralis lib. 8 cap. 13 [illegible] Tur[illegible]
in[illegible] libro 2 cap. 12 Caldas pereira ad leg. [illegible]
num 9 [illegible] Barb. in leg. si filius familias [illegible] num 13
[illegible] lib. 2 canonicarum questionum cap. 18 [illegible]
cap. 33 num 16 [illegible] [illegible] num
89 num 50 Zeballos [illegible] [illegible] 464 [illegible]
[illegible] et pot [illegible] part 3 [illegible] 50 [illegible] [illegible]
Barb. in collectaneis ad textum in cap. sacris de sepul. et ad [illegible] cap. [illegible]
[illegible] collectanea ad nostrum [illegible]

Sed licet hec nostra conclusio tot Iuris et in[illegible]
autoritatibus Valata ad[illegible] [illegible] [illegible] [illegible] dubitandi
[illegible] in[illegible] et [illegible] adversus nos [illegible] Clem[illegible]
[illegible] affirmat [illegible] publice excommunicati [illegible]
tumulari [illegible] [illegible] [illegible] [illegible]
[illegible] ex ea consideratione [illegible] delicta [illegible]
[illegible] textus in cap. ex publicorum [illegible] [illegible]
obligationibus et actionibus leg. [illegible] [illegible] ex delictis [illegible]
[illegible] Gomez [illegible] resolutiones in [illegible] ex delictis cap. 1 Anto[illegible]
[illegible] lib. 4 conjecturarum cap. 8 Dominicus [illegible] lib. 8 selectarum cap.
nos [illegible] est textus in cap. [illegible] Ubi a patribus decernitur publice
[illegible] Ecclesiastica [illegible] non esse privandos predicatur Dominus [illegible]
[illegible] ex quo in iuste in nostro textu decidit excommunicatos
[illegible] nominatim interdictos et usurarios manifestos non esse [illegible]
dos [illegible] Ecclesiastica sepultura esse privandos [illegible] ea pena non [illegible]
[illegible] post mortem et per mortem [illegible] probatum [illegible]

Augetur hec dubitandi ratio ex ea consideratione quod excom[illegible]
[illegible] privatur a participatione sacrorum et [illegible] delicti textus in cap.
[illegible] cap. ex communicato 8 cap. qui communicaverit [illegible]
[illegible] cap. si celebrat de Clerico excommunicato celebrante ad [illegible] est [illegible]
[illegible] non pertinet ad denegationem sepulturam sed solum modo ut denegetur
[illegible] cum fidelibus et rebus sacris ex quo [illegible]
excommunicationis non debent [illegible] = augetur hec dubitandi
ex [illegible] [illegible]

Alterius augetur dubitandi ratio ad [illegible]
Pontif. [illegible] delicti [illegible] autores debet [illegible] non vero [illegible]
debet [illegible] textus in cap. [illegible] cap. nullus cap. non imponantur [illegible]
sed penna interdicti solum modo [illegible] propter peccatum [illegible]
cap. non ex voto de sponsalibus Domus Cob. in cap. alma mater [illegible]
[illegible] de sententia excommunicationis lib. 6 ex quo inferiores non debent
[illegible] privat Ecclesiastica sepul. ob delicta [illegible] nec [illegible]
[illegible] debent [illegible] sententia excommunicationis [illegible] [illegible]
[illegible] facto [illegible] consequatur [illegible] licet [illegible] consulendo
deinde mortuis [illegible] [illegible] [illegible]
debet exhiberi [illegible] hoc constat ex lib. 2 Regum cap. 2 Ubi Rex [illegible]

quas[illegible]

[illegible] contributionum [illegible] lib. 4 [illegible]

+ L3 [illegible] 2

Secunda dubitandi ratio

Pro illis qui sepelierunt corpora Saul et Ionatae et probatur 2 Reg. ...
Salomon dicebat non esse prohibendam gratiam, id est, sepulturam mortuis ...
... excap. 2. Clerici vel et ... patres ... ensis ...
... prestaverunt gratiam pro sepultura ... extraxerunt ... in Cle...
... 13 ... textus etiam confirmatur hoc ... sicut tenentur homi...
... debent ... misericordia ... habe...
... sepultura ... probatur ...
... rationalibus sed etiam ...

Tercia et ultima ratio dubitandi sic ... nostrae ... ...
antiquo excommunicati ab Ecclesiasticae sepultura privantur ... consolatio
... de consecrat. Ecclesiae ... ex iure antiquo ... pro ...
... extra ... lib. 6 ... interdicti ex ...
privilegiis 23 de ... Unde ... quod nos in Clemens V ...
... ... predictas ... edita ... de ... Ec...
sepulturam ... excommunicatis ergo ... nostri Pontif. ... sepul...
... = Ulterius refragatur tanquam ...
Pontif. ... quod non sepeliuntur notorius percussor clerici ... excommunica...
tus nominatus ... publice denunciatus erat ... doctrina ...
trabagantis ... ad evitanda scandala promulgata in Conc. Constanti...
... excommunicati ... publice ... non sint denunciati ...
privantur a communione fidelium ergo non debet similiter privari sepultura
sacra ... sed in nostra clementina non fuerunt denunciati tanquam publi...
ce excommunicati ... ratione non debent privari Ecclesiastica ... ratione
... distributione Ecclesiastica =
Nec debent puniri sepelientes distributione Ecclesiastica =

Ulterius adversus ... partis ... noster Pontif. quod pena excommu-
nicationis affligantur sepelientes tempore interdicti in casibus a iure
non concessis difficilis redditur ex Can. ... Conc. Lateran. ubi expressimus et
... plurimorum Episcoporum ... fuit ad ... ... in predicto
Conc. Lateran. ... templarii et hospitalarii et alii religiosi professionis ex ...
privilegia sua ... a Sede Apost. multa faciebant ... Epis-
copale et precipue ... patres Conc. quod temp. interdicti ab Episcopis ...
... religiosi exempti in suis Ecclesiis mortuos sepeliebant ...
decrevit Conc. Lateran. quod templarii non audeant mortuos sepelire interdi...
Ecclesiis et sepulti non debeant ... sed Ecclesiam interdictos ...
Unde ex decisione Can. ... Conc. Lateran. aperte et manifeste non imponit
penam excommunicationis ipsis religiosis exemptis scilicet templariis et hos-
pitalariis ergo similiter noster Clemens V. non debebat adversus ...
privilegiatos tempore interdicti sepelientibus penam excommunicationis ...

Sed his rationibus dubitandi minime refragantibus verissima, atque
certissima est nostri textus conclusio atque pro viribus defenenda; sed ante
quam ad rationes decidendi perveniamus aliqua in medium ...

in primis omnisse antiquitate sepulturad [illegible] apud Hebreos quam Gentiles [illegible] [illegible] omnimis [illegible] fuisse exhibiti, [illegible] videndi sunt [illegible]
[illegible] sacris [illegible] [illegible]
[illegible] antiquitatibus [illegible]
[illegible] Concilia [illegible] [illegible]
[illegible] honore [illegible] Ecclesiae [illegible] religione venerabantur ut [illegible]
in eis fas non erat [illegible] [illegible] Ubicumque [illegible]
[illegible] 13. [illegible] [illegible]
sepelienda in ecclesijs concessum fuit, ut constat [illegible]
[illegible] Imperator qui [illegible] ecclesijs [illegible] sepultus sed solum consequutus fuit ut in portico, vel in atrio ecclesiae [illegible]
[illegible] Dominus [illegible] in homilia 66 [illegible]
[illegible] cap. 58. [illegible] hac lege [illegible]
[illegible] Abbates et [illegible] ratione [illegible] approbata [illegible]
[illegible] Concilio [illegible] 7 ex Concilio [illegible] canone
[illegible] 2.° Can. 18. [illegible] imperatoribus [illegible]
[illegible] Calixtus lib. 15 cap. 56. — [illegible] cum viva [illegible] prohiberent in [illegible]
ut manifeste deducitur ex lege decem virali in illis verbis, [illegible] in urbe ne sepe[illegible]
[illegible] lib. 1.° sententiarum §. 2.° ea ratione hoc fecerunt ne [illegible], et sacra polluere[illegible]
istimabant enim quod si mortui intra moenia urbis tumularentur, sacra violar[illegible]
Unde publica loca habebant destinata juxta portas [illegible] de quibus re[illegible]
Julius [illegible] et Spondanus in locis supra citatis — Unde Christiani [illegible]
debebant ex verbo in coemeterijs, [illegible] ecclesiae nascentis temporibus coeme[illegible]
constructa fuisse, ubi humabantur corpora fidelium, non vero in ecclesijs, ut refert [illegible]
[illegible] de ritibus ecclesiae, lib. 1.° cap. 23. adeo que coemeteria in honore fuerunt Christi[illegible]
ut pote in quibus reliquiae martyrum venerabantur, ut tradit Baronius, [illegible]
2 26. Lemaistre, de bonis et possessionibus ecclesiarum lib. 1.° cap 15, Unde in [illegible]
Clementina verbo in coemeterijs cum prohibet ne usurarij excommunica[illegible], et inte[illegible]
in eis sepeliantur, quia adhuc vigebat usus sepeliendi mortuos in coemeterijs
viget nullus fidelis in loco minus religioso sepeliri possit cap. [illegible] 13 quaes[illegible]
[illegible]ratione, quod corpora humata, et tumulata in ecclesijs dicatis majoribus patrocini[illegible]
[illegible] habebant in eis, ita ut ab spiritibus immundis non [illegible] ut refert [illegible]
[illegible] de ritibus ecclesiae lib. 1.° cap. 23 Barbosa de off.° [illegible] cap. 26 [illegible]
beneficio plures homines arcebantur [illegible] sua 1.° [illegible] infideles, [illegible]
retici cap. excommunicamus §. credentes de haereticis 2.° decedentes in torneamentis [illegible]
cap. 1.° et 2.° de torneamentis, quod odie confirmatur, ex Concilio Trid.° sessione 25
[illegible]matione cap. 19 Gratianus disceptationum forensium cap 40; 3.° qui semel in anno [illegible]
[illegible] cap. omnis utriusque de poenitentijs. 4.° Religiosi propria bona habentes cap.
[illegible]chi de statu Monachorum etiam occidentes se ipsos, cap. placuit 23 quaest. 5.ª non [illegible]
tes decimas, et alij quos refert Barbosa de off.° [illegible] cap. 26, et Spond[illegible]
[illegible]dite plures connumerat lib. [illegible] pt. 2.ª per totum, et hij omnes ex antiquis
excommunicati sunt, et ab ecclesiastica sepultura excluduntur, cap. consul[illegible]
de consecratione ecclesiae vel altaris [illegible] usurarij cap. quamquam 2.° de usura[illegible]
notorie interdicti cap. ut privilegia 23 de privilegijs, unde si quidrata, [illegible]
ter statutum est in nostra clementina, cum jure communi poena constituta fu[illegible]
[illegible] privatio sepulturae, et excommunicatio inflicta sepelientibus, [illegible]

non solum ex nostro textu sed ex antiquis juribus

dicen[illegible]

Dicendu est pœna adversus sepelientes non erat imposita, ut ipso iure [illegible] incurrant, hoc postea Clemens noviter disposuit, ut ipso facto incidant in pœnam excommunicationis. Ulterius noviter dispositum est in nostra Clementina, ut eo tamen minime absolvantur [illegible] prestita satisfactione de iniuria illata ecclesiæ propter audaciam et temeritatem eorum [illegible] [illegible] [illegible] corpora excommunicatorum [illegible] [illegible] in manuali cap. 27 [illegible] Gregorius lib. 2º Sintagmatis cap. 13. Cobarrubias, lib. 3º [illegible] cap. 3º [illegible] nonus in nostra Clementina apparet, [illegible] licet antiquius rema[illegible] excommunicatis qui excommuni[illegible] [illegible]; [illegible] hæc res [illegible] a Clemente nostro, et solummodo excommunicati remaneant [illegible] publice excommunicatos sepelierit, non vero si [illegible] fuerint adulti excommunicati interdicti [illegible] [illegible] qui iure communi [illegible] [illegible] pœnas [illegible] [illegible] tumulationis facere, et ideo hoc commendanti [illegible] ratione nostra Clemens, non excipiendo exemptos, et privilegiatos a pœna excommunicationis, ut constat ex verbis nostræ Clementinæ [illegible] exempti et privilegiati pari pœna [illegible].

[illegible] [illegible] [illegible] præ[illegible]tandum est quod non sine ratione [illegible] [illegible] [illegible] [illegible] [illegible] ubi non communicamus [illegible] mortuis [illegible] [illegible] [illegible] cap. [illegible] de sepulturis, at cum excommunicato publice et cum usurariis manifestis palamque interdictis in vita prohibita est [illegible] cap. cum [illegible] excommunicato, cap. excommunicatos 11 quæst. 3ª cap. 4º de usuris [illegible]; ergo nec eis defunctis communicare debemus, et comprobata, namque inter [illegible] referuntur, ad res sacras annumerari ~~traditio~~ societas, quæ intercedit in traditione corporis sepulturæ ecclesiasticæ cap. non estimemus 13 quæst. 2ª, ergo nullus debet eos sepelire. Comprobatur nostræ decidendi ratio ex discursu aliquo iuris civilis deducto ex L. 2ª ff. de cadaveribus punitorum, ubi affirmat Consultus, quod cadavera punitorum scilicet deportatorum et relegatorum non debent deduci ad civitatem, sed in ea parte eo quo loco, ubi deportati fuerunt debent humari et rationem elegantissime probat Iuris Consultus, quia post mortem adhuc remanet pœna, ita Iuris Consultus Scævola in leg. citata Cobarrubias lib. 2º variarum cap. 4. ex ea ratione provenit, ut tempore interdicti fideles ecclesiastica sepultura priventur, nisi privilegio sibi nixi sint, quia cum eo tempore communio inter fideles non sit cap. alma mater de sententia excommunicationis in sexto ibi Cobarrubias cap. de sententia excommunicationis in sexto quia si cum ecclesiastica sepultura sit communicatio inter fideles iuste eo tempore denegatur, cap. alma mater de sententia excommunicationis in sexto, ideo iusta cum ratione a nostro Clemente quinto stabilitum fuit quod tempore interdicti non possunt corpora defunctorum sepeliri nisi certis ex causis. nec etiam publice excommunicati palam interdicti manifeste que usurarii hoc sufragio non debent gaudere, et qui eis opitulerent, sive sint privilegiati sive exempti, et vel quousque alio homine non gaudente privilegio pœnas excommunicationes ipso facto sunt innodati, ex ~~mente~~ verbis nostri Clementis. Hanc decidendi rationem comprobant, et illustrant Autores in conclusionis comprobatione alati.

[illegible] Lamamira L. [illegible]

[illegible] Dominus [illegible]

[illegible]

[illegible] et Vera [illegible]

[illegible]

[illegible]

[illegible] instan

[illegible] Pontifex [illegible]

[illegible] Clemens [illegible]

[illegible] petitorio [illegible]

[illegible] Episcopis in omnibus cau

[illegible] et econtrario responsa [illegible]

[illegible] proposita Romanus Pontifex, et licet petitorium et pos

sessorium iudicium terminari possit cumulative, et si partes convenerint ante

conclusionem causae ut discepletur de possessorio hoc fieri debet in [illegible]

[illegible] hunc huius facti speciem nostram Clementini, ex qua sic deducitur

elucidanda atque illustranda conclusio == in causa Verre [illegible] ac

Apostolicae de Voleta. Utraque causa possessionis et proprietatis commulari

potest et praesente utrumque iudicium terminetur, et spoliatus potest

ante conclusionem causae petere ut de possessione disceptetur, [illegible] pe

titorio hanc conclusionem veram probat text. in cap. pastoralis

§. cap. ad ultimum 2 text. in cap. ex Litteris sutrinae 3. cap. 1 de causa

possessionis et proprietatis in decretalibus. cap. significaverunt 36 de

testibus cap. sub ortu 11 de re iudicata cap. ex venissent de constitutione petitum

cap. 1. de restitut. spoliatorum cap. 2 de cap. monachorum. cap. constitutis

tas de filiis presbyterorum de iure civili probat text. in leg. ordinarii 13

Cod. de rerum vindicatione, ~~leg. [illegible] cod. de in [illegible]~~ leg. cum fun

dus 18. § final. ff. de vi et vi armata. leg. terminato cod. de iudiciis

leg. sinis 29 § final. de solutionibus leg. si unus § pactus ff. de pactis leg.

meminerint cum aliis cod. unde vi, leg. si de vi 37 ff. de iudiciis de iure

Regio non desunt iura quae probant nostram assertionem primo leg. 27

tit. 2 part. 3 leg. 8 tit. 11 lib. 2 compilationis probant et exornant pr

textordinarios repetentes ad nostrum textum scilicet Abbas, Panormitanus

Cardinalis, Zabarella, Petrus de Ancharano, Imola, Paulus de Castro et

Bonifacius de Vitalinis, ~~[illegible] Bibianus in [illegible] lib. 2~~ pag. [illegible]

~~[illegible] in comp. [illegible] et [illegible]~~ pag. 2 3 [illegible] Jimenez in

~~[illegible] por 1 et [illegible]~~ [illegible]

+

Imprimis [illegible] Dominus [illegible] Colaxao [illegible]

cap. 16 num. 13 D. Joannes Balboa in ex[illegible]

[illegible] ad cap. 1. de causa possessionis et proprietatis [illegible]

[illegible] Balboa tomo 1 ad cap. [illegible] 2 [illegible] 67

[illegible] possessione [illegible] 3 num. 307 [illegible] 18 [illegible]

[illegible] cap. 6 [illegible] 11 [illegible]

17 num. 107 [illegible] 171 [illegible] 4 [illegible]

num. 37 [illegible] lib. 2 [illegible] 371 [illegible]

[illegible] 15 num. 368 [illegible]

[illegible] decisione 2 [illegible] 254

[illegible] 2. cum [illegible]

Causa possessionis [illegible]

cum sequentibus ff. de [illegible]

Verum cap. 3 [illegible] quam plurimi [illegible]

sed in dicta causa [illegible] ad nostram Clementinam et [illegible]

ad nostram &c.

Sed licet haec nostra conclusio [illegible] in [illegible] auctoritatibus [illegible] fulcita [illegible] Valata persistat ingentes tamen rationes dubitandi ad versus eam in [illegible] et prima in hunc modum se dispositam [illegible] asserit Noster Pontifex ~~[illegible]~~ Judectus [illegible] [illegible] potest ut una sententia terminetur [illegible] difficile videtur primo enim possessio nihil habet cum proprietate leg. naturaliter 12 § nihil commune ff. de adquirenda possessione sunt plane hae res dissimiles leg. 14 § ultimo de exceptione rei judicatae [illegible] facti [illegible] leg. 1 § 3 leg. cum heredes 23, leg. de [illegible] 17 ff. ex quibus [illegible] itaque duae actiones non modo distinctae sed etiam insociabiles [illegible] omnia rei vindicationis leg. [illegible] 23 ff. de rei vindicat. § primo in titulo de actionibus = possessio autem parit actionem in personam seu interdictum leg. 1. § [illegible] ff. de interdictis, ergo hae [illegible] duobus distinctis actibus et judiciis tractari [illegible] non vero cumulati in uno judicio una eademque sententia terminari debet, ergo [illegible] nostri Clementis V. [illegible] cum contraria [illegible] [illegible] in quibus videtur decreta Pontificis [illegible] habere [illegible] hic dubitandi ratio ex supra dicta consideratione quia actiones contrariae incompatibiles nunquam cumulari possunt ~~leg. 1 Cod. de [illegible]~~ cod. de [illegible] cum ibi notatis [illegible] 16 cod. de inofficioso testamento [illegible] in cod. [illegible] tit. [illegible] 8. et comprobatur quod lites possessionis prius decidi oportere et [illegible] de proprietate ab eodem judice cognosci, expressus [illegible] in leg. ordinarii 13 cod. de rei vindicatione verba sunt. Ordinarii [illegible] est ut prius de possessione [illegible] de proprietate ex quo intelligimus judex prius de causa ~~[illegible]~~ possessionis debet [illegible] et si contrarium fecerit [illegible] appellari potest docentes [illegible] in leg. 1 cod. de appellationibus [illegible] si ipse judex de utraque causa possessionis et proprietatis

Uno Iudicio cognosci ciere voluerit et determinari decreverit, nec placuisset et iudicium [illegible] experiri non potuerit leg. exitus 35 ff. de adquirenda possessione leg. interdum 62 ff. de iudiciis leg. liberi § ultimo ff. de liberali causa [illegible] hoc probatur quia repetitoria actio in[illegible], prius constare debet [illegible] posse[illegible] natura[illegible] civilis ratio [illegible]; [illegible] qui [illegible] fuit [illegible] retinendae [illegible] leg. interdum 62 ff. de iudiciis [illegible] iudex de utroque iudicio [illegible] petitorio [illegible] possessorio [illegible] probaverit [illegible] de dominio [illegible] cod. de rei vindicatione [illegible] possessionis pendente [illegible] contra dispositionem iuris civilis [illegible] utroque iudicio petitorio et possessorio [illegible] Clemens V. [illegible] ex [illegible] de [illegible]

[illegible] servato ordine iuris civilis [illegible]

noster Clemens [illegible] eodemque modo [illegible] leg. 3 [illegible] cod. de interdictis [illegible] Innocentius 3 [illegible] in lib. 2 [illegible] cap. 39 [illegible] ex eo Clemens V. ex cap. secundae 18 § ultimo ff. de vi et vi armata [illegible] centius Pontif. se refert ad dispositionem iuris civilis [illegible] verbis iuris videtur [illegible] comprobare [illegible] ex [illegible] verbis iuris [illegible] ad legem tertiam cod. de interdictis secundae 18 [illegible] ex leg. secunda 18 iudicia petitorium et possessorium [illegible] manifeste [illegible] Clemens V. [illegible] cumulari non debet. Vide errorem [illegible] noster Pontif. Clemens V. [illegible] et auctores iurisprudentiae civilis [illegible] iurisconsultus Ulpianus [illegible] de proprietate et de dominio rei possunt pendente iudicio petitorio de possessorio [illegible] sed ex his verbis non sequitur [illegible] causa possessionis et proprietatis [illegible] verba Ulpiani [illegible] pendente petitorio, [illegible] id est, dilatio et suspensio [illegible] causa possessionis [illegible] ex eo sequitur cumulatio [illegible] iure civili [illegible] non sed potius de ordine [illegible] causas in iudiciis [illegible] et [illegible] constat ex expresso [illegible] in leg. ordinarii 13 cod. de rei vindicatione leg. [illegible] leg. 3 cod. de interdictis, leg. 1 cod. de [illegible] leg. [illegible] 37 ff. de [illegible] leg. extat 35 ff. de adquirenda [illegible] ergo iudicia [illegible] non potest [illegible] contra dispositionem iuris civilis.

[illegible]

[illegible] adversus eandem partem [illegible] est [illegible] interpretes sicut Martinus et Petrus de [illegible] affirmarunt [illegible] interdicto retinendae possessionis non posse cumulari cum proprietate, sed affirmant [illegible] in interdictis adipiscendae et recuperandae possessionis [illegible] possunt cum dominio [illegible] praedicti [illegible] similiter [illegible] dictas [illegible] retinendae [illegible] recuperandae. [illegible] apparebit

+ Secunda ratio dubitandi incipit [illegible] ea parte [illegible] ait textus
[illegible] iudicatis ante [illegible] causae [illegible] partes [illegible] possessorio [illegible]
Videtur ex [illegible] in quo docemur quod quoties competunt [illegible]
[illegible] omnis [illegible] [illegible] § [illegible] quod [illegible]
[illegible] actione [illegible] § [illegible] habebat [illegible]
4 § quoties [illegible] [illegible] quoties [illegible]
[illegible] debet. ergo [illegible] Clem. [illegible] pars [illegible]
Non habebit [illegible] ad possessorium [illegible] ergo Clem. V. [illegible]
dubitandi ratio ex [illegible] cod. quo [illegible] est [illegible]
[illegible] debet [illegible] ad [illegible] de [illegible]
[illegible] et pars [illegible] ad possessorium [illegible] esset. [illegible]
textus [illegible]

Quarta dubitandi ratio ex eo quod [illegible] possessorio et petitorio simul [illegible]
[illegible] cap. Cum dilectus, de causa possessionis [illegible]
petatur ergo [illegible] petitorio [illegible] possessorium [illegible] et
hoc [illegible] ratio [illegible] in [illegible]
Ne partes [illegible] et lites fiant immortales ex [illegible]
proprietatis non potest [illegible] possessorium [illegible]
Nos [illegible] Clementinae [illegible] partes = Alteri [illegible]
ratio cui dubitationi [illegible] intentato iudicio petitorio et sententia lata [illegible]
iudicium possessorium tanquam causa principali [illegible] determinata [illegible]
[illegible] lib. [illegible] cap. 8 [illegible] ergo non recte affirmat nostra Clemen. V. quod
petitorio intentato [illegible] definitioni eius [illegible] iudicio possessorio

+ [illegible] dubitandi ratio ex [illegible] cap. [illegible] [illegible] quod [illegible]
[illegible] observanda sed in nostra Clem. fuerunt [illegible] a Sede Apostolica in [illegible]
[illegible] circa causam proprietatis [illegible] ergo in eadem forma debent [illegible]
[illegible] proprietatis [illegible] Cum [illegible] ergo [illegible]
[illegible] nostrae Clem. ### [illegible] lite contestata in petitorio non potest [illegible] ad [illegible]

Contra antedictam rationem habet electionem [illegible] respondet Bartolus [illegible] § nihil commune [illegible]
[illegible] possessione et [illegible] ex cap. 1 et 2 de mutuis petitionibus [illegible]
[illegible] potest [illegible] habere ad instar conventionis et reconventionis [illegible]
[illegible] reconventio fuerit [illegible] ex [illegible] cap. [illegible] de ordine cognitionis
[illegible] ante ingressum causae de restitutione spoliatorum [illegible]
est [illegible] et ante litem contestatam debet opponi [illegible] cod. [illegible] cap. [illegible]
[illegible] cap. pastoralis de except. [illegible] Cod. lib. 1 [illegible] resolut. [illegible]
13 ergo [illegible] intentato iudicio petitorio non potest pars intentare possessorium [illegible]
Clem. V. hoc debuit affirmare
[illegible] dubitandi [illegible] cap. [illegible] de causa possessionis
et proprietatis cap. 9

His ita rationibus dubitandi [illegible] verissima est nostrae
sententia [illegible] defendenda sed antequam ad rationem decidendi deveniamus
[illegible] primo sciendum est [illegible] iudicium petitorium
[illegible] petitorio § 2 ff. de rei vindicat. cap. [illegible] cap. [illegible]
de causa possessionis et proprietatis [illegible] lib. 12 § [illegible]
[illegible] possessione et [illegible] in [illegible]

+ Ruirlendi [illegible] in cap. pastoralis [illegible] de causa possessionis n. 95

+ Solutio apud [illegible] in cap. [illegible] de causa possessionis n. 9

+ Solutio [illegible] in cap. [illegible] de causa possessionis n. 3

Solutio apud [illegible] in cap. pastoralis n. 39

Secundo [illegible] est interdicta seu remedia possessoria [illegible] adipiscendæ, retinendæ et recuperandæ posses[sionis] lex 2 § [illegible] ff. de interdictis § [illegible] institutionem de interdict. Arnoldus Vinnius in loco citato Cornelius et Sifamus ad leg. 3 cod. [illegible] dict. quorum [illegible] [illegible] potestate [illegible] alii [illegible] leg. 17 [illegible] ff. de interdict. leg. [illegible] quod [illegible] videtur (quare [illegible] o[mnia] interdicta dicantur [illegible] [illegible] non adversis [illegible] apelari quasi interdicta [illegible] lib. 22 observationum cap. 21 [illegible] interdicta [illegible] quia sunt edicta prohibitoria leg. 1 [illegible] uti posside[tis] [illegible] sed verius ergo est interdicta apelari quasi interim edicta, et interdicunt [illegible] nihil aliud est quam interim et dicere ~~interim namque~~ de possessione agitur cum plenius de ~~de toto~~ negotio et de proprietate disputatur Coba in practicis cap. 17 num. 2 [illegible] lib. 1 [illegible] cap. 10 [illegible] lib. 3 sententiarum cap. [illegible] ~~Mol. decimo [illegible] cap. 17~~ num. 25 [illegible] [illegible] [illegible] exemplum [illegible] pro [illegible] exemplum [illegible] adipiscendæ est in interdicto quorum bonorum quod competit ei, [illegible] est [illegible] ditas extitit. [illegible] leg. 1 et 2 cod. quorum bonorum ad [illegible] et efectualem possessionem quam numquam habuit et quam ipso iure non [illegible] sicut dominium leg. cum heredes 23 ff. de adquirenda possessione [illegible] possessorum adipiscendæ est in interdicto quod legatorum ubi restituit [illegible] colegatorio nomine non voluntate eius sed propria autoritate a legatario [illegible] patum fuerit huic propter falsidiam quam ex eare detrahere heres potest quia [illegible] [illegible] Pretor ut legatarii non propria autoritate acciperent legata [illegible] 1 in principio ff. quod legatorum aliud exemplum est in interdicto salviano quod competit ad verius conductorem predii [illegible] si invecta et illata quæ pensionis nomine obligata tenentur e predio abduxerit et abstraxerit in possessionem eorum [illegible] ei, a quo conduxit. leg. 1 ff. de salviano interdicto = exemplum interdicti retinendæ possessionis est in interdictis uti possidetis et utrubi. Uti possidetis datur pro rebus immobilibus utrubi pro mobilibus [illegible] Abbas Panormitanus in cap. pastoralis num. 16 et datur possessori qui in iudicio et extra iudicialiter turbatur in sua possessione ad versus turbantem ut hic turbare et molestare desinat = [illegible] in iudiciis possessoriis est recuperandæ possessionis et in hoc fuerunt plura remedia introducta ut est interdictum unde vi de quo in titulo de restituti spoliatorum et conditio triticaria conditio [illegible] conditio indebiti actio in factum [illegible] iuditiis et alia remedia quæ pertinent ad hoc iuditium recuperandæ possessionis referuntur a Corrado in dicta leg. naturaliter 12 et Abbas in dicto cap. pastoralis hoc nostro titulo

Secundo [illegible] tendo quod est ut inter doctores valde controversum est an petitorium et possessorium possint simul cumulari in eodem iudicio et processu in quo triplex est opinio prima fuit Ioannis et Azonis relati a Bartolo in lege naturaliter § nihil commune, [illegible] ubi afirmant nullum possessorium cum petitorio posse concurrere sed prius de possessione quam de proprietate cognoscendum est quam opinionem defendunt Arnoldus Vinnius in loco citato Sifamus et Donelus ad leg. 3 cod. de interdictis, secunda fuit opinio Petri de Bella pertica relata ab eodem Baltulo quod omne possessorium

[illegible] que [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pretexto =

Cumulari [illegible] petitorio cum possessorio defendit Andreas Balenni [illegible]
Socinus in [illegible] ad nostram [illegible] in [illegible] tenia damus [illegible]
[illegible] Clementis possessorium adipiscendae et recuperandae [illegible] petitorio
Cumulari non [illegible] [illegible] sententiam defendimus [illegible]
boa et [illegible] lib. 8 controversiarum cap. 5 et confirmatur [illegible]
[illegible] [illegible] [illegible] possit exceptione [illegible]
[illegible] [illegible] 16 [illegible] 18 ff. [illegible] et [illegible]
[illegible] possessorio [illegible] [illegible] [illegible]
[illegible] ff. de [illegible] et hoc sensu [illegible] tex. [illegible]
[illegible] ff. de vi et [illegible] cap. 2 cap. [illegible] hoc [illegible]
Cap. [illegible] 36 de [illegible] cap. [illegible] [illegible]
[illegible] de [illegible] et [illegible] et in [illegible]
[illegible] [illegible] at vero retinendae [illegible]
Cumulari non [illegible] aperte [illegible] ex tex. [illegible]
Nostro [illegible] in versiculu [illegible] et in [illegible] [illegible]
Contrarius [illegible] naturaliter Bald. in cap. pastoralis [illegible] =

[illegible] [illegible] quod [illegible] Balboa ad [illegible]
[illegible] de causa possessionis n. 39 et 40 et [illegible]
[illegible] in causa [illegible] Balboa [illegible] citato n. 34 [illegible] ad 38

= [illegible] Clementina [illegible] Bald.
in cap. pastoralis de causa possessionis [illegible] n. [illegible] [illegible] 41
[illegible] Clementina [illegible]
cap. pastoralis de causa possessionis n. 8

[illegible] [illegible] Balboa [illegible]
[illegible] n. 47 —

[illegible] [illegible] [illegible] ac =

Jesus, maria y Joseph. y santo tomas de aquino.

hoc anno [illegible] successimus ex
plicacione ~~[illegible]~~ a domingo ruiz a quo stant
in titº de sententia et re iudicata
in 6 ~~[illegible]~~ erit prima repeticio
ala doctrica ad celebrem et singularem textum
in cap. cum. eterni tribunal iudicis 1 hoc
in titulo de sententia et re iudicata in 6.

nº 1

Conclusio que ex nostro textu communiter deducitur sit: se habet iudex ecclesiasticus sive ordinarius sive delegatus qui contra ~~[illegible]~~ conscienciam et iusticiam per graciam vel per odium vel per pecuniam corruptus quid quam facit in iudicio in gravamine litigantis, suspensus est ab execucione ~~[illegible]~~ iusticiorum per annum et condemnatur in estimacione litis parti lese, et si durante suspensione se ingerat divinis efficitur irregularis a qua non liberatur nisi per dispensacione summi pontificis ~~[illegible]~~ co non obstante hac pena a nostro capite imposita, non excluduntur alie que a iure civili imponuntur contra iudicem corruptum precio premio gracia et aliis huiusmodi.

Margin: toti divisit et [illegible]

Margin: ~~[illegible]~~

Hanc conclusionem probant textus in cap. cum ad anni 10 de vita et honestate clericorum * in capite iudices 3 causa questione 7 cap. 1 15 questione 7, sanctus gregorius pontifex in ca. quod cotidie 11 quest 3 sanctus isidorus in cap. omnis qui iuste iudicat 14 quest 3 sanctus gregorius in cap iudicare cap. qui recte iudicat ap. distinctione ~~cap~~ sanctus gregorius in ca. pauper 11 quest 3 cap. statim 11 § insuper de rescriptis in 6. argumento ex cap. iudices 1 quest 1 ex sacra [illegible] in cap. 1 § procuraciones de censibus in 6. cap. iudices 1 quest 1 ex sacra pagina in exodo cap. 23 ibi nec accipias munera que eciam excecant prudentes et subvertunt verba iustorum. in levitico cap 20 ibi dona excecant oculos iudicum et quasi mutus in ore avertit correcciones eorum; facit textus in cap. falsidicus 1 de crimine falsi, de iure civili corroborant textus in l. ultima cod. de pena iudicis qui male iudicavit lege filius familias § iudex 1 ff de iudiciis lege finali ff de variis et extraordinariis cognicionibus. lege si quis 5 § si iudex 4 ff de obligacionibus et actionibus. leg. iudices 12 cod. de dignitatibus lib 12, de iure regio leg. 24 tº 22 partita 3 ibi malamente iuzgaren los iuzgadores que fezieren contra derecho a sabiendas por precio o promesa [illegible]

Margin: + sanctus isidorus [illegible] relatus

Margin: + principio instit. de obligacionibus que ex quasi delicto nascuntur.

nº 2

predicta conclusione preter ordinarios repetentes illustrat et exornat ~~[illegible]~~ angelicus preceptor divus thomas secunda secunde questione 67 articulo 2 covarrubias lib 1 variarum resolucionum cap 1 nº [illegible] consequenter pater soto de iusticia et iure lib. 5 quest 4 articulo 2 [illegible] joannes gutierres lib 2 canonicarum quest cap 29 per totum pater sanchez [illegible]

in consiliis moralibus lib 6 cap. 1 dubio 17 idem sanchez in eisdem consiliis lib [illegible]
unico dubio pater suarez de censuris disputat 32 sectione 3 n 16, molina
qui de iustitia et iure tractatu 2 disputat 84 consequentibus. [illegible]
tomo 1 prima parte [illegible] n 60 consequentibus. farinacius in praxi crim
parte 3 quest 111 n 14 consequentibus. tiberius decianus in tractatu crimi
lib 8 cap 34 n 1 consequentibus. bobadilla in politica lib 5 cap 3 ex n 26, [illegible]
lib 2 commentariorum cap 2 qui plures refert in [illegible] caput
viris barbosa plura et plures congerit in collectanea ad [illegible] textum

n 3

sed licet haec nostra conclusio tot [illegible] eruditorum predictorum auctoritate
[illegible] validis persistat non nullis pariter dubitandi rationibus et prima disp
[illegible] ex illa parte [illegible] textus in [illegible] iudicem contra ~~[illegible]~~ [illegible]
[illegible] iudicare ponendum esse per annum ad executionem officii difficilis est
[illegible] innocentii 4 nam [illegible] quod iudex iuxta conscientiam
~~[illegible]~~ et scientiam [illegible] debet iudicare [illegible] probationibus et allega
[illegible] partium; [illegible] est [illegible] quia iudex in [illegible]
[illegible] sententiam proferre secundum allegata et probata licet iudici
[illegible] esse [illegible] actoris textus in [illegible] ex lege finali
[illegible] ~~[illegible]~~, textus in [illegible] illicitas

[illegible] in [illegible] textus [illegible] sententiam
[illegible] de officio [illegible] textus [illegible] in iudicio [illegible]
a iudice [illegible] esse [illegible] quae probantur in iudicio [illegible]
[illegible] quod iudex secundum veritatem debet iudicare textus in [illegible]
[illegible] veritas autem dicitur id quod per probationes
[illegible] argumento textus in cap 1 [illegible] de frigidis et maleficiatis [illegible]
[illegible] andreas [illegible] in cap 1 de officio ordinarii n 84 ergo non est
[illegible] innocentii 4 iudicem debere et [illegible] secundum propriam conscientiam
dicare

n 4

, contra [illegible] argumento evidenti probat decisio textus in [illegible]
[illegible] 28 § [illegible] vero de officio et potestate iudicis delegati quo textu afirmat
iudicem ~~ordinarium~~ requisitum a delegato ut sententiam eius exequatur [illegible]
et debere executioni tradere etiam [illegible] iniquam et iniustam esse, [illegible]
[illegible] decisionis [illegible] quia auctoritas rei iudicatae, [illegible]
~~[illegible]~~ [illegible] inquirere an iusta vel iniusta sit [illegible]
ter auctoritatem rei iudicatae ergo officium iudicis est potius exhibere [illegible]
probationibus quae quidem a iure auctoritatem habent secundum caput [illegible]
[illegible] quam his quae privatim ex propria conscientia ~~[illegible]~~ [illegible] iudicet [illegible]
[illegible] iudex, probatur [illegible] alio fundamento ex textu in cap. [illegible]
[illegible] quod bonus iudex nihil ex
[illegible] facit sed iuxta leges et iura pronuntiat, non indulget propriae voluntati
quibus [illegible] nihil aliud [illegible] quam quod
iudex ex [illegible] nihil iudicet, sed ex probationibus et allegationibus ergo

Margin notes:

cap. iudi [illegible] quest 1

etiam si sciat privatim executor esse ~~[illegible]~~ ~~[illegible]~~ [illegible] quae datam.

facta est per distinctionem nostri textus quatenus asserit iudicem sententiam proferre posse secundum conscientiam suam, non vero secundum allegata et probata ~~[illegible]~~

n. 5

Secundo dubitatur ex eo quod asserit noster pontifex iudicem contra iustitiam iudicantem in estimatione litis partis lese condemnandum esse ~~[illegible]~~ hec resolutio nostri textus circa estimationem litis non potest sustineri, quia tota doctrina nostri pontificis in [illegible] fundatur in dispositione iuris civilis atqui iure cesareo iudici qui perperam et contra iustitiam iudicabit nulla pena est constituta, sed arbitrio et religioni iudicantium relicta est lege. iudici ff ~~[illegible]~~ extraordinariis cognitionibus. principio institutionum de obligationibus que quasi ex delicto nascuntur ergo non ad estimationem litis preparare tenetur male iudicans, = ulterius ultimus fateretur teneri iudicantem contra iustitiam [illegible] pecuniam corrupti ad estimationem litis partis lese, erit superflua hec estimatio litis quia iudex pecunia corruptus sententia ab eo lata nulla est ipso iure quia senatus [illegible] leg. [illegible] cod. quando provocare non est necesse ubi ex hoc infertur non esse necessariam appellationem [illegible] ergo eo casu quo iudex sordibus corruptus sententiam dixerit [illegible] nihil interest litigatoris non videtur litem suam facere [illegible] iudicem condemnari ad estimationem litis quia sic [illegible] sententia lata nulla est [illegible] litigatoris condemnati leg. 1 § condemnatis ff de re iudicata ergo [illegible] recte deducitur non esse condemnandum iudicem iniusti [illegible] ad estimationem litis =

n. 6

Nec noster pontifex innocentius 4 debuit dicere iudicem [illegible] pecunia corruptus pluribus penis condemnari [illegible] textus quod talis iudex [illegible] iure civili nec canonico, in [illegible] potest, hoc non patitur iure civili nec canonico [illegible] constat ex paulo libr. 2 de [illegible] in leg. senatus 1 ff de [illegible] [illegible] ubi senatus censuit [illegible] textus in leg. [illegible] nec [illegible] varias estimationes [illegible] iure canonico [illegible] duplici pena puniri non debere textus in cap. at si clerici 4 § de adulteriis 2 de iudiciis [illegible] presbiter 12 [illegible] 81 [illegible] ex canone 25 apostolorum qui refertur [illegible] concilium [illegible] 3 canone 39 [illegible] 2 canone 19 concilium [illegible] 1 sub leone 1 canone 2 [illegible] 6 sub honorio 1 canone [illegible] 2 canone 1 concilium [illegible] 42 [illegible] ad canonem 25 apostolorum [illegible] folio 6. ergo [illegible] sententia et doctrina nostri [illegible]

textus in dicta parte sustineri non potest, —

n. 7

Ultimo contra nostrum textum sic conficitur argumentum, quod in textu per se lex iudicem pretio pecuniae non posse iudicare; hoc enim videtur repugnans dispositioni ex cap. statutum 11 § insuper, de rescriptis in 6 ubi iudici delegato a partibus accipere expensas et procurationem a litigantibus [illegible]; ex ... regio ... 3 tit. 15 lib. ordinamenti ibi salvo cosas de comer o de bever ... de grado [illegible] solum iudicibus delegatis, verum etiam iudicibus ordinariis licitum est munera accipere a partibus ut testatur citatum caput statutum 11 et lex regia quae loquitur de ordinariis iudicibus. Confirmatur hoc argumentum ab Ulpiano in l. solent 6 § non vero 3 ff de officio proconsulis ubi proconsul in provincia [illegible] certa et ubi insignia pro consule ostendit xenia accipere non prohibeto neque abeis abstinendus est, xenia nil aliud est quam munera et dona [illegible] ... conviviis ... [illegible] ad praedicatum textum invehitur ex leg. plebiscito 18 ff de officio praesidis in quo textu conficitur ... negat ... praesidibus provinciarum, accipere expensas et pecuniam ab litigantibus, [illegible] expensas et pecuniam [illegible] consumi possint; conducit in corroborationem huius difficultatis quod ait [illegible] ... cap. romana 1 § deinde et § procurationes de censibus in 6 ubi ... episcopus vel alius quicumque iudex ecclesiasticus pro uno tempore ... [illegible] ... accipere procurationes hoc est expensas ... et expensas necessarias ad victum familiae visitandis ... 6 cap. 14 de censibus ... rationem ... interpretibus ... quia nemo cogi potest suis stipendiis militare ... exercere munus officii sui sine aliqua utilitate et recompensatione ... iuxta illud apostoli Pauli ad Corinthios cap. 9 quis militat suis stipendiis umquam; quis plantavit vineam et de fructu eius non comedit; quis pascit gregem et de lacte eius non manducat; de qua doctrina ... etiam mentio ... Bonifacium 8 in cap. si episcopus 6 de officio ordinarii in 6 et ... in ... 3 in cap. cum ex officii tui debito 16 de praescriptionibus ibi quis seminat non est magnum si metat carnalia ... in cap. ... 16 de officio ordinarii cap. 17 n. 12 et 13 Barbosa de universo iure ecclesiastico lib. 3 cap. 22 n. 7 ergo iudex ecclesiasticus munera et dona recipere potest ... dum iudicat et sententias profert sicut episcopus ... accipere ut ... dum iudicium exercet visitando ... vivi cum in correctione morum et punitione delictorum

n. 8

Sed his rationibus ... non obstantibus ... ad quem ... est ... textus conclusio ad quam ... devenimus, aliqua ... ad explicationem istius capitis, gravissimum crimen ... iudex corruptus ... id est pretio vel pecunia ... faciens ... reddendam ad iudicio ...

// Cesare ~~autem~~ promulgata, denominatur crimen repetundarum a
repetendo pecunias ablatas [illegible] quocumque modo extortas per ma-
gistratus aut eos qui in publico fuerunt officio leg. 1 ff ad legem Iuliam
repetundarum Paulus lib. 5 sententiarum tit. 28. Cuiacius lib. 1 observationum
cap. 9. Prosperus Farinacius in praxi criminali parte 3 quaest. [illegible] Ti-
berius Decianus in eadem praxi criminali 2 tomo lib. 8 cap. 33 n. 2
sordes etiam appellabantur pecuniae corruptionis ex hoc dicitur in
lex sordibus corruptus efficitur mentio in leg. 3 § ~~[illegible]~~ ff de calumniatoribus
de sordibus etiam loquitur textus ~~[illegible]~~
cum filius familias 45 § 1 ff de iudiciis, leg. sed si proponas 26 § item per ma-
gistratus factum [illegible] maiores in integrum restituuntur leg. si per
imprudentiam ~~[illegible]~~ § 1 in principio ff de evictionibus, non solum commi-
tunt sordes iudices et magistratus, sed etiam tutores et curatores et [illegible]
venisse si curatorum officium per pecuniam aliquid fecerint leg. ait prae-
tor 1 § quid sit 8 versiculo ceterum ff de minoribus viginti quinque annis
leg. tutor 1 § cum per tutorem 2 ff de administratione tutorum leg. tutor 3 § quamvis videa-
mus 5 ff de suspectis tutoribus. sic enim damnatus ratione sordium, dicitur qui
damnatus est crimine repetundarum ut legitur apud Plinium lib. 2 epistola
12 et apud Quintilianum lib. 4 cap. 166. sic etiam sordidum consilium
iudicium, pro corrupto consilio interpretatur ~~[illegible]~~ Cicero lib. 3 epistola 20, dum
loquitur de Gabinio pro sordibus absoluto, senatus enim ~~[illegible]~~
~~[illegible]~~ appellat ~~[illegible]~~ nummarium tribunal iudicii de bene-
ficiis quando iudices eius sunt per sordes corrupti, antiqui etiam
vocabant nummarios iudices pecunia corruptos ut refert [illegible]
lib. 1 in epistola ad Atticum = ~~[illegible]~~

n. 9

+++ quod etiam ante legem Iuliam repetundarum

Secundo ex dictis +++ ~~[illegible]~~ hoc quaerimus [illegible] repetundarum [illegible]
(licet lex duodecim tabularum [illegible] ex capite puniret iudicem pecu-
nia corruptum si legitime probaretur ob sententiam dicendam
pecuniam accepisse notat Aulus Gellius lib. 20 noctium atticarum cap. 1 cum
plurimis [illegible] Tiberius Decianus 2 tomo in praxi criminali lib. 8
cap. 39, quamvis postea ex leg. Iulia repetundarum extra ordinem puniun-
tur ~~[illegible]~~ [illegible] poena mitior exilio, vel etiam ~~[illegible]~~
~~[illegible]~~ Tiberius Decianus 193 n. 8 cum sequentibus
Tiberius Decianus supra citato cap. 39 n. 6, ~~[illegible]~~
~~[illegible]~~ vero in laicis civilibus specialiter ~~[illegible]~~
~~[illegible]~~, tenetur ex maleficiis quia ultra infamiam
quam incurrit privatur potestate iudicandi leg. iudices Cod. de digni-
tatibus lib. 12 leg. si ad aliquid Cod. de poenis [illegible]
~~[illegible]~~, et tenetur iudex [illegible]
si lege, ad omnia damna et expensas quas ratione iniustitiae par-
tes in iudicio declaraverit et iuraverit textus in leg. fin. [illegible]

vel etiam capitali poena con[illegible]
[illegible] omnibus bonis leg. ex Iulia
criminali ad legem Iuliam repetundarum
authentica novo iure Cod.
iudicis [illegible]
~~[illegible]~~ ex leg. [illegible]
regni Hispaniae, leg. 29 tit. 22
[illegible]
textus [illegible]
[illegible]
[illegible] fiel [illegible]

cod. de pena iudicis qui male iudicavit leg. filius fam. de iis § si iud. ff. de iudiciis autentica novo iure cod. de pena iudicis qui male iudicavit, textus expressus in leg. 24 ~~tt. 22~~ [illegible] 3 leg. 52 tt. o 49 [illegible]

imperator autem cesar convictos iudices crimine repetundarum, [illegible] amovebat ut ait Suetonius in Cesare cap. 43, et idem dicitur [illegible] ff de senatoribus quod cassius longinus non putat [illegible] permittendum qui propter turpitudinem senatu motus nec restitutus est, iudicare vel testimonium dicere quia lex Iulia repetundarum hoc fieri vetat — puniebantur etiam iudices [illegible] pena falsi leg. 1 § ~~[illegible]~~ ff ad legem corneliam de falsis, item incidebant in edictum de calumniatoribus leg. 1. ff de calumniatoribus, item si quid [illegible] extorquebat per concussionem tenebatur etiam pena concussionis leg. 1 ff de concussione, nec mirum est quod tale crimen variis legibus et multiplici pena castigetur, [illegible] [illegible] delicti est grave consensio illata litigantibus [illegible] contra doctrinam [illegible] penas [illegible] textus ubi ~~[illegible]~~ multiplici castigetur — plura alia que penas in [illegible] crimini congesta [illegible] lib. 8. cap. 39 [illegible] in [illegible] de pecunia corruptus, [illegible] 3 questione III pertotum + in predicta [illegible] in lex pecunia corruptus [illegible]

~~[illegible]~~ tt. 40

autem alia lex que iudicem puniebat ~~[illegible]~~ in [illegible] ~~[illegible]~~ iuxta textum in leg. 1 cod. ad legem Iuliam, hoc est quadrupli [illegible] estimatione ~~[illegible]~~ [illegible] Iuliam repetundarum pena ipsa quadrupli pro dimidia fisco applicatur et altera dimidia litiganti [illegible] [illegible] explicanda [illegible] ut in dicta leg. 1 cod. ad legem Iuliam repetundarum fisco applicatur iuxta ~~[illegible]~~ alt pappel glosa in dicta leg. 1 cod. ad legem Iuliam [illegible] [illegible] cap. 29 n. 22, # sed hec pena quadrupli non [illegible] hodie, [illegible] ex autentica novo iure cod. de pena iudicis qui male iudicavit [illegible] in causa civili [illegible] pecuniam in lex [illegible]

+ o pecunie date

pecunie date, sed nos in contrarium [illegible] dictam legem 1 cod. ad legem Iuliam repetundarum cum autentica novo iure cod. de pena iudicis qui male iudicavit, [illegible] autentica novo iure non derogavit penam quadrupli illatam per dictam leg. 1 [illegible] enim quod dispositio authentice novo iure procedit [illegible] in iudice [illegible] dicta ~~[illegible]~~ dispositio dicte legis 1 cod. ad legem Iuliam repetundarum procedit in eo [illegible] administratore provincie, qui [illegible] et sic com[illegible] [illegible] et [illegible] ad pappel ~~[illegible]~~ [illegible] ~~[illegible]~~ pena legis 1 sed utraque lex locum [illegible] quod autentica novo iure ~~non tollit~~ [illegible] [illegible] secundum diversitatem casuum, ita [illegible] Farinacius in praxi glossa III n. 69 = [illegible] cumulative, [illegible] et una cum aliis non confunditur, sed in [illegible] iudicis est unam [illegible] aliam imponere ut [illegible] n. 12 [illegible] tt. 40 et III = ~~[illegible]~~

et non solum datur accio in quadruplum adversus iudicem corruptum, sed etiam adversus eius heredem si in lex [illegible] leg. 6 [illegible] ff ad legem Iuliam repetundarum leg. 2 cod. eodem tt., sed contra hoc dicito [illegible] quod heres ex delicto defuncti non tenetur, ergo non debet [illegible] pena quadrupli ut notatur in leg. [illegible] ff de [illegible] ~~[illegible]~~ facile expeditur [illegible] quia speciale est in crimine repetundarum ut heres iudicis corrupti teneatur in quadruplum etiam si [illegible] lis contestata non fuit [illegible] ~~[illegible]~~ dicitur in dicto leg. [illegible] ff de [illegible] [illegible] eod. 10 cod. de [illegible] 10 n. 21 [illegible] ad legem Iuliam repetundarum [illegible] =

~~[illegible]~~ confiscatis [illegible] bonis prout dicitur in autentica novo iure cod. de pena [illegible] iudicavit [illegible] ff de penis ex [illegible] ~~[illegible]~~ leg. 25 [illegible] 3 [illegible] + [illegible] est ne alieno delicto dicatur [illegible] ut notatur in [illegible] [illegible] defunctorum —

glosa, et leg. 4 ff. 9 l. 3 [illegible] [illegible], [illegible]
[illegible] verbo [illegible] [illegible] [illegible] de expendendis mandatis [illegible]
[illegible] [illegible] [illegible] conscientia iudex dolo vel culpa
male iudicans tenetur parti lese ad totale interesse ut probat textus in l. [illegible] si
quis [illegible] et in l. [illegible] quia [illegible] cap. licet [illegible] [illegible] textus in cap. [illegible]
de [illegible] [illegible] prosequitur [illegible] in [illegible] verbo iudicis [illegible]
parte [illegible] de [illegible] et iure lib. 3 [illegible] adtendo [illegible] [illegible] cap.
[illegible] n. 12.

[illegible] iudex non dolo nec precio et pecunia corruptus, sed per im
peritiam iudicaverit male, tunc ad interesse parti lese [illegible] [illegible] [illegible]
[illegible] in principio [illegible] institutionum de obligacionibus que ex quasi delicto [illegible]
si iudex [illegible] [illegible] [illegible] extraordinariis cognitionibus [illegible] lex 2a
ff. [illegible] partitas [illegible] [illegible] [illegible] lex si iudex ff.
[illegible] [illegible] extraordinariis cognit. ubi pena arbitrio iudicis imponitur iudici
per imperitiam vel imprudentiam iudicanti, ergo non erit obligatus ad inte
resse [illegible] lese, hoc [illegible] [illegible] [illegible] [illegible]
[illegible] de obligacionibus que ex quasi delicto nascuntur, hanc dificultatem
[illegible] gregorius lopez in explicatione textus in d. leg. 2a [illegible] 22 part. 3 [illegible]
ait semper tamen iudicem per imperitiam iudicantem ad totale interesse [illegible]
parti lese, et quasi ex maleficio obligatus est ut late prosequitur [illegible] [illegible]
[illegible] [illegible] tempore l. n. 54 [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] l. 17 et 18. ceterum
[illegible] [illegible] [illegible] [illegible] et debet relinqui religioni
[illegible] iudicantis, veluti si iudicaverit male per imperitiam de iurisdictione
[illegible] [illegible] [illegible] quod [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
parti lese, vel [illegible] [illegible] [illegible] ita [illegible] que
[illegible] iudicis [illegible] pena imponenda male iudicanti ita intelligit que
gregorius lopez predictam legem si iudex [illegible]. ### bartolus vero ad eam legem
respondens [illegible] quod pena [illegible] arbitrio iudicis
[illegible] ut non teneatur per imperitiam iudicans ad totale interesse [illegible]
[illegible], sed [illegible] [illegible] potest [illegible] bartolus
[illegible], sed [illegible] [illegible] [illegible] [illegible] modum [illegible]
[illegible] arbitrium iudicis; sed mea [illegible] [illegible] [illegible] [illegible] ad interesse totale par
[illegible], iudex per imperitiam iudicans tenetur ad interesse totale parti
lese, sed datur tamen arbitrium iudici qui de imperitia [illegible]
[illegible] male iudicantis cognoscit [illegible] [illegible] condemnare
[illegible] et [illegible] interesse et damnum veluti [illegible] in lege
[illegible] [illegible] [illegible] [illegible] tunc enim tolerabilior est
[illegible] [illegible] [illegible] quod est in opinionibus. in his casibus
ignorantia veluti [illegible] [illegible] [illegible] [illegible]
[illegible] similibus [illegible] [illegible] et non in totum [illegible] [illegible] litis iudi
[illegible] ita insinuavit baldus in leg. mancipia [illegible]
[illegible] fugitivis glosa in principio institutionum de obligacionibus que ex quasi delicto
nascuntur

Dicere possumus licite [illegible] [illegible] [illegible] [illegible] [illegible]

n. 11

hoc est tantummodo ad extimationem litis et [illegible] [illegible] quia solummodo ex quasi delicto obligatus est, [illegible] [illegible] quando dolo pecunia vel precio corruptus est iudex [illegible] ultra extimationem litis [illegible] [illegible] [illegible] [illegible] quia non ex quasi delicto sed ex vero et infami delicto coercetur ut notavit [illegible] [illegible]

[illegible] extraordinariis cognitionibus.

[illegible] in praxi [illegible] tempore [illegible]; quin immo affirmo et [illegible]
[illegible] secundum doctrinam plurimorum interpretum quod si iudex [illegible]
ter quantum in se est et studuit examinando processum et [illegible]
omissis quidquam desidiis videre et inquirere, quamvis postea apareat
[illegible] sententiam [illegible] errasse ~~[illegible]~~ in intelligentia facti [illegible]
vel impenetrabilitate [illegible], non tenetur iudex ad damnum [illegible]
lege, neque ad illud interesse, quia in tali casu iudex caret dolo [illegible]
diligentiam quam potuit in inquisitione processus et studio ~~[illegible]~~ et
solutione [illegible], argumento textus in leg. [illegible] cod. de [illegible] quibus [illegible]
[illegible] qui dependet ab humana imbecilitate et qui naturaliter in
non debet ad culpam imputari ~~[illegible]~~, quia natura humana non
[illegible] perspicere et investigare ~~[illegible]~~ non [illegible]
ne consequitur sed ad eos [illegible] adquem clamabat [illegible]
[illegible] confessionum consulasti et [illegible], et [illegible]
[illegible] gregorius lopes in leg. 24 tit. 22 partita 3 verbo [illegible]

n. 12

etiam similiter excusatur a iudice esse partis lege, [illegible]
[illegible] defendendo doctrinam et opinionem sui magistri, [illegible]
[illegible] quem refert paulus in leg. qualem § unde ~~[illegible]~~
2 versiculo [illegible] magistri ff [illegible] adiutus [illegible]
[illegible] in capit. de postulat praelatorum [illegible] in [illegible]
[illegible] capit. L, non tamen [illegible] quod [illegible]
[illegible] opinionem sui magistri et preceptoris [illegible], non est tamen [illegible]
secundum [illegible] doctrinam doctorum, quando longe melior et verior [illegible]
argumento textus in leg. [illegible] in principio versiculo [illegible]
[illegible] ~~[illegible]~~ de filio [illegible] ### in cap. [illegible] 27 [illegible]

[illegible]

cat, argumento etiam ex [illegible] de [illegible] instituendis [illegible]
[illegible] debent [illegible] ea quae [illegible] tradita sunt [illegible]
23 ff de legibus [illegible] in leg. [illegible] cod. de [illegible] qui male iudicat
[illegible] supra dicto cap. [illegible], ~~[illegible]~~
sed infertur [illegible] quod iudex tenebitur ad totale [illegible]
in quo [illegible] non studuit ~~[illegible]~~ ad veritatem
[illegible] neque ponderavit [illegible] sed [illegible]
[illegible] quod sit [illegible] ### [illegible]
tamen [illegible] leg. [illegible] 223 ff de v. sig.

leg. magna [illegible] 226 eodem tit.

~~[illegible]~~ leg. [illegible] versiculo quidergo ff de [illegible]
[illegible] lib. 1 [illegible] cap. 8. ~~[illegible]~~ [illegible]
[illegible] quod iudex non [illegible] et nihil [illegible]
legere debet [illegible] processum videat [illegible], nam validum est [illegible]

~~in leg.~~ 24 tit. 22 part. 3 [illegible]

[illegible] quod [illegible] ad [illegible] officium, nam validum est [illegible]
[illegible] comprobat [illegible] in prologo ad librum codicis [illegible]
[illegible] codicis [illegible] § 3 prope finem =

n. 13

Deus, enim sapiens noster rex alfonsus in leg. 3 tit. 4 [illegible] et in leg. 18 tit. 9 partita 2 commendat qualitates et requisita que iudices habere debent, scilicet habere debent bonam progeniem, bonum sensum, sanum intellectum, prudentiam, scientiam, mansuetudinem, legalitatem, et quod [illegible] iustitiam et pietatem, et quod sit [illegible] speciali ex [illegible] [illegible] quod timeat deum et sit bone famae absque cupiditate, hec fere [illegible] litates confirmantur [illegible] iuxta illud [illegible] sacra pagina iuxta illud exodi cap. 18. ietro dixit ad moisem provide de omni plebe viros sapientes et timentes deum in quibus sit veritas et oderint avaritiam, in omnibus enim magistratibus eligendis non solum pru[den]tia iuris [illegible] sed etiam experientia litium est prae necessaria, ut affirmat rex in leg. 28 sed cum sit necessarium de [illegible] [illegible] dere 3 tit. 4 partita 3 ibi que ayan sabiduria para judgar los pleitos derechamente por su saber o por uso de longo tiempo, alioquin qui ita [illegible] [illegible] non debet ex [illegible] aut expertus non fuerit [illegible] iudicandi et mandandi non debet ex [illegible] fundamentis pro hac parte adductis [illegible] a francisco hotomano in [illegible] questio [illegible] illustrium questione 26 ubi resolvit quod si aliter munus iudicandi aliquis legum imperitus et iuris inexpertus susceperit litem suam faciet si per imperitiam iudicaverit et parti ad interesse tenebitur iuxta principium institutionum de obligationibus que ex quasi delicto nascuntur [illegible] ff de variis et extraordinariis cognit. = sed contra hoc supra dictis [illegible] finalis ff de variis et extraordinariis [illegible] velut [illegible] [illegible] videtur maxime obstare, quod iudices superiores veluti prefecti pretorii [illegible] apud nos sunt los presidentes y oidores de las chancillerias de male iudicatis per imperitiam non tenentur [illegible] [illegible] [illegible] nulla culpa [illegible] teresse nec litem suam faciunt, quia ut [illegible] plato in dialogo 6. de legibus inquit nemo autem [illegible] sic testatur filosofus plato in dialogo 6. de legibus [illegible] referat [illegible] [illegible] iudex magistratus [illegible] [illegible] confirmat etiam hoc iuris [illegible] [illegible] finem [illegible], confirmat etiam hoc iuris consultus [illegible] in leg. unica § 1 versiculo credidit enim princeps [illegible] ff de officio prefecti pretorio ibi credidit enim princeps eos qui ob singularem industriam, explorata eorum fide et gravitate, ad huius officii magnitudinem adhibentur, non aliter iudicaturos esse pro sapientia ac luce dignitatis sue, quam ipse foret iudicaturus ergo non semper poterit dici iudices per imperitiam iudicantes teneri ad interesse parti [illegible] et litem suam facere, = cui oppugnationi respondere debemus [illegible] [illegible] [illegible] do inter iudices supremos et iudices inferiores, iudices supremi [illegible] [illegible] qui loco prefectorum pretorii subrogati sunt, habent supremam iurisdictionem ut sunt presidentes [illegible] oidores de las chancillerias i audiencias [illegible] tanquam iudices supremi non [illegible] teneri

[illegible] Castel [illegible] l. 2. n. 61 [illegible] et [illegible]

~~[illegible]~~

de male iudicatis pervingentiam [illegible] scilicet quando sentenc
das, sic enim in omnibus tribunalibus supremis praxis et [illegible]
[illegible] observat ut late testatur Castadilla lib. 5. politice cap.
a n. 55 usque ad 65 auctoris [illegible] in principio [illegible]
[illegible] ex [illegible] pluries rationes [illegible]
[illegible] prima ~~[illegible]~~ quia si ad [illegible]
adversus presidentes vel regentes et auditores [illegible]
[illegible] nullus finis litium daretur et consequenter [illegible]
superiores iudices non haberent vitam ad prosequendas lites [illegible]
[illegible] ex defectu substantie vel solemnitatis,
erat conveniens autoritati iudicum supremorum litigare [illegible]
[illegible] immo contemneretur honor debitus eis [illegible]
[illegible] litigantium de male iudicatis [illegible]
[illegible] et [illegible], quod quidem
est [illegible] affirmat Castadilla [illegible]
[illegible] quia lex nostri regis [illegible] scilicet lex 24 tit. 22 partita 3
quidem loquitur de iudicibus ordinariis scilicet de [illegible]
[illegible] inferiores iubet ut de male iudicatis
conveniantur et adire esse compellantur; et si ista lex regia [illegible]
[illegible] comprehenderet supradictos iudices superiores [illegible]
sed hoc non fecit evidentissime videtur eos exclusisse [illegible]
[illegible] lites male ~~[illegible]~~ determinat
textus [illegible] ‡ authentica cod. de iudiciis [illegible] ubi quia
idem videbat nulla erat difficultas conveniendi ea dispone
~~[illegible]~~
~~[illegible]~~, ergo expressissime constat iudices superiores non teneri [illegible]
[illegible] de male iudicatis nec adire esse lites; sed tantum
iudices ordinarios [inferiores] [illegible], [illegible]
[illegible] fundamentis prosequitur et ratiocinatur Castadilla [illegible]
[illegible] dicto lib. 5 politice cap. 3 a n. 55 usque ad 65 =

, [illegible] enim disputatio illa maxime [illegible]
exagitata an iudex debeat et teneatur ex allegatis et probatis [illegible]
in iudicio nota fuerit, sententiam dicere non vero ex his quae [illegible]
[illegible] particulari scientia [illegible] ad hoc enim examin
[illegible] hanc quaestionem ut melius intelligatur [illegible]
[illegible] scilicet contra conscientiam + [illegible] prima [illegible]
~~[illegible]~~ contra conscientiam [illegible] = in praedicta enim quaestione
[illegible] opiniones prima est quod in nullo casu nec in [illegible]

‡ [illegible] vers. [illegible] in fine

vide

+ [illegible]

ne in criminali liceat iudici condemnare eum quem [illegible] [illegible] esse innocentem, quamvis ex allegatis et probatis legitime constaret esse reum, huius opinionis fuerunt auctores panormitanus in [illegible] [illegible] [illegible] quia vero de [illegible] [illegible] glossa [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] fundamenta huius opinionis et plures auctores congerit praeses covarrubias libro variarum resolutionum capitulo primo numero 4, [illegible] pro hac causa criminali, eam opinionem prolixe comprobat auctoritas [illegible] libro [illegible] quaestionarii quaestio 37 in 3 opinione pagina mihi 299. = ~~[illegible] [illegible] [illegible] [illegible]~~

= secunda sententia verissima atque receptissima est scilicet ubi iudex in [illegible] [illegible] conclusus angustiis debeat in omni causa tam civili quam criminali contra veritatem sibi notam ut privato, secundum allegata et probata sententiam pronunciare ex pluribus fundamentis quae adducit [illegible] [illegible] [illegible] quaestio 7 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] iudex enim iudex [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] non indulget propriis [illegible] [illegible] sed sicut audivit ita iudicat, nam ut inquit [illegible] [illegible] [illegible] quaestio 67 articulo 2 ad 4 homo iudex [illegible] [illegible] [illegible] [illegible] [illegible] ~~[illegible]~~ quaestio 67 articulo 2 ad 4 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] debet eam informare, secundum ea quae in iudicio ~~[illegible]~~ [illegible] debet eam informare, secundum ea quae in iudicio [illegible] [illegible] idest secundum conscientiam publicam quae ex iudicio instructa est exactis processibus; non vero debet iudicare iuxta conscientiam suam privatam quia licet secundum eam reus innocens sit, secundum tamen publicam conscientiam quam sequi tenetur nocens est; ratio huius opinionis in eo etiam fundatur quia si aliud [illegible] [illegible] [illegible] [illegible] ordo iudiciarius atque tota quies reipublicae christianae perturbaretur maxima quae scandala orirentur; et nonnumquam innoxie persone ~~[illegible]~~ iudex innocentibus convictis afirmaret falso de innocentia ~~[illegible]~~ [illegible] dicendo quod ex propria scientia intelligebat verum esse in nocente; quamvis contrarium esset probatum ordine iudiciario, quae inconvenientia faciunt ut iudex secundum allegata et probata iudicet non solum in causa civili verum etiam in criminali ut defendit multis fundamentis covarrubias libro variarum capitulo 1 numero 6 et 7, [illegible] [illegible] [illegible] et in quaestio 4 articulo 1 versiculo tertia ergo opinio glossa in [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 285 quia vero [illegible] [illegible] [illegible] et in [illegible] [illegible] [illegible] extra glossam, cardinalis [illegible] [illegible] et panormitanus, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap 29 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ex his enim recte intellecta manet prima ratio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = sed resolutionem huius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] textus in dicto cap. [illegible] [illegible] opinionis [illegible] [illegible] [illegible] [illegible]

[illegible] tenetur [illegible] 67 [illegible]

iudicis [illegible] sententiam [illegible] ubi iudex debet sententiam

proferre secundum conscientiam [illegible] particularem; ex illis verbis contra

conscientiam quam sibi iudicet ergo iudicans tenetur iuxta [illegible]

am et conscientiam propriam; sed haec doctrina non [illegible] immo [illegible]

nostri textus [illegible] et convenient resolutione [illegible]

nem quod dicitur in textu nostro est iudicem pronuntia-

re non contra conscientiam [illegible], sed secundum [illegible]

propriam conscientiam informatam ex allegationibus et [illegible]

omnibus processus [illegible] [illegible] et [illegible] [illegible]

thomas 2. 2. quaestione 67 articulo 2 ad quartum, [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

#textus in cap. iudicet 3 quaest. 7 — iudex iudicet delegatus [illegible] # nec obstat etiam [illegible]

multorum [illegible] [illegible], ubi videtur [illegible]

iudicent [illegible] contra conscientiam

[illegible] debent iudicare iuxta conscientiam privatam ex probatis [illegible]

processus. = nec etiam obstat argumentum quod [illegible] thomas

quaest. 67 articulo 2 ubi ait quod homo semper debet conformari [illegible]

[illegible] divino iudicio, ex illo deuteronomii cap. 1; sed iudicium

dei est secundum veritatem, ergo iudex non debet iudicare contra propriam

conscientiam et veritatem quam ipse ut privatus agnoverit

[illegible]; respondit [illegible]

[illegible] dicendo quod deus iudicat secundum propriam potestatem

in iudicando informatur iuxta veritatem quam ipse cognoscit, [illegible]

secundum hoc quod ab aliis accipit; at vero iudices ut homines [illegible]

non iudicant secundum propriam potestatem, ideoque debent informari

ex actis processus et secundum ea acta iudicare, [illegible] est [illegible]

ratio quae in argumento adducitur; neque obstare videtur textus

cap. inquisitioni 44 de sententia excommunicationis in illis verbis

timens ne contra iudicium conscientiae committat offensam, ubi debuit [illegible]

numquam quis agere debeat contra proprium iudicium et conscientiam [illegible]

[illegible] difficultati facile respondetur, si animadvertas quod textus [illegible]

inquisitioni loquitur quando maritus ex propria scientia [illegible]

et certa cognovit impedimentum quod erat inter ipsum et uxorem

suam, ut tunc non posset convenire carnaliter; in quo casu [illegible]

debet abstinere [illegible] quamvis per ecclesiam compellatur [illegible]

[illegible], [illegible] [illegible] ratione quia [illegible] debet [illegible] excommu-

nicatione, [illegible] [illegible] quam contra propriam conscientiam [illegible] operari

tale textus in cap. litteras 13 de restitutione spoliatorum cap. [illegible] 32 quaest.

cap. [illegible] 5 de his quae vi metusve causa fiunt; haec enim doctrina est [illegible]

[illegible] quia loquitur de privata persona semper [illegible] debet operari [illegible]

[illegible] conscientiam; [illegible] separata loquitur [illegible]

de iudice qui secundum allegata et probata debet iudicare ut supra [illegible] explicabitur remanet; intellectu enim haec dispositione [illegible] ad [illegible]

Dicitur in textu canonico iudex ecclesiasticus qui precio aut alias personas iniustam dederit sententiam suspenditur ab executione officii per annum textus nostri in dicto cap. 1 ver. si vero (?) suspensus autem iudex ecclesiasticus descenderit, et iudicatum ibi ab executione officii per annum noverit se suspensum; quae suspensio non solum intelligitur quo ad ordines sed etiam quo ad executionem officii, ut bene notavit pater suarez de censuris disputat. 31 sectione 3 n. 16. farinatius in praxi criminali parte 3 quaest. 111 n. 29, et qui durante suspensionis per annum iuxta textum in dicto cap. 1 si durante anno suspensionis iudices ordines se ingesserit irregularis efficitur ita quod a dicta irregularitate non poterit liberari nisi per dispensationem summi pontificis, ut ex litera textus constat [illegible] in illo textu suspensionem quem innuere [illegible] et sufficienter dicendum quod praedicta pena suspensionis officii non extenditur ad beneficium, sed tantum intelligi sub dictis et divinis; sed contrarium est dicendum secundum doctrinam farinacii dicta quaest. 111 n. 76 quod suspensio debet etiam esse ab beneficio, ea namque ratione quia alias esset nimis levis pena suspendere [illegible] ad officio [illegible], qui a pedibus non desineret [illegible] ventrem saluberrime [illegible] et quod peius esset [illegible] altari, propter suspensionem officii, deal [illegible] vivere [illegible] limitari etiam potest quia pena haec iuris canonici ad vitelige suspensionis officii ordinis per annum, non tantis [illegible] ad iudices seculares quibus talis pena applicari non potest, cum careant officio ordinis secundum sufficienter in dicto cap. 1 n. 9 verbo ecclesias [illegible] ex auctoritate n. 1 in fine, sed praedicta pena canonica non tollit alias penas tam legales quam canonicas, huiusmodi iudicibus precio aut alias personas male iudicantibus infligendas prout ad literam dicit textus in dicto cap. 1 in fine, ubi salvis aliis constitutionibus quae iudicibus male iudicantibus penas ingerunt et infligunt, ~~[illegible]~~

~~[illegible]~~ [illegible] dat in hoc ~~[illegible]~~ [illegible] citatus farinatius loco citato n. 93 et 94. pena haec suspensionis de qua in nostro textu tria requiruntur ut iudex ecclesiasticus incurrat, primo quod per gratiam [illegible] iniustam proferat sententiam, secundo quod sit contra iustitiam, tertio quod sit in gravamen partis altero [illegible] de

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Marginal notes (left margin, partly cut off):

[illegible] iudicetur ~~[illegible]~~ [illegible] mihi, non omittere [illegible] quod ordinis potest a [illegible] in [illegible] lapse ipse suspensus in [illegible] irregularitatem si non [illegible] [illegible] recitaverit [illegible] ~~[illegible]~~; et licet suspensus [illegible] communicatus publice [illegible] [illegible] celebrare non debet ~~[illegible]~~ [illegible] incidere in irregularitatem, iuxta caput illud de [illegible] excommunicato [illegible] ministrare cap. [illegible] [illegible] 28. tamen [illegible] secundum opinionem [illegible] [illegible] [illegible] excommunicationis [illegible] parte 83 [illegible] [illegible] excommunicati [illegible] [illegible] quod [illegible] [illegible] extra missam [illegible]

+ contra doctrinam [illegible] in cap. cum sit [illegible] de [illegible] [illegible] 22 quaest. 1 [illegible] cap. quicumque [illegible] cap. ecclesiasticus 12 quaest. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] [illegible] =

[illegible] in cap. [illegible] [illegible] excommunicat. [illegible] = suspensus [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] 1, 11 quaest. 3

irregularis efficitur, regulariter ad dispensatione summo pontifici, ex ea sequitur quod nec episcopus nec legatus pontificis potest dispensare quia regulariter dispositio est reservata apostolico pontifici

+ ut in causa nam procedens innocens ... in nostro cap. et in cap. cum medicinalis de sententia excommunicationis quia reservatio dispensationis circa irregularitatem in nostro casu facit ut episcopus nec legatus pontificis in ea non possint dispensare. ut doctissime glosa ratiocinatur in cap. illud clerici de sententia excommunicationis ... dominici ... glosa ... et ... clerici ... sed contra hoc videtur facere in ... cap. quaesito de ... cap. ... 2 quaestione ... irregularitatibus per canones reservatis pontifici dispensat episcopus ... facile respondetur quod in dictis ... dispensat episcopus vel inferior auctoritate et consensu papae ... glosa in dicto cap. clerici ... excommunicato ... in ... quaestione ... cap. 6 ... episcopus ... dispensare circa irregularitates ... reservatas ... in ... dispensatione ... appellatione

deficiente cessat pena ... in solutione ad ... in ... glosa ... et ... 31 ... 16

n. 18. ... in nostro textu videtur ut ... [illegible] judices prudenter attendant ... nihil vendicet ... cap. ... 3 quaestione 7 cap. ... actione ... quaestione 7 ... vel premium aut spectatio premii justitiam non evertat cap. qui ... dicat ... quaest. 3 ... sanctus gregorius relatus in cap. quatuor ... 11 quaest. 3 ibi quatuor modis pervertitur humanum judicium, timore dum metu potestatis alicujus veritatem loqui pertimescimus: cupiditate dum premio animum alicujus corrumpimus: odio dum contra quemlibet adversarium molimur: amore, dum amico vel propinquo ... prestare contendimus; sed statera in manibus debent gestare in manibus cap. ... 21 causa 14 quaestione ... qui ... qui recte judicat stateram in manu ... gestare cap. omnis qui ... ibi ... omnis qui recte judicat stateram in manu gestat in utroque pengo justitiam et misericordiam portat, per justitiam reddit peccanti sententiam, per misericordiam peccantis temperat ... ut ... libramine quedam per equitatem corrigat: quedam vero per misericordiam indulgeat ... ut ... in omnibus que agenda et tractanda fuerint ... judicantium ... habeant deum, ... in ... et remissionibus ... ad dominum referebat, et juxta ... quod moises querelas populi semper ad dominum ... proponebat; ... hominis ... judicium ... proferamus condemnationis vel justificationis ... sententiam juxta illud exodi cap. 32, ... sanctus gregorius relatus in ... summopere 11 quaest. 3; ... et non evertat justitiam propter timorem ... ut in nostro textu dicitur timor exulet ... semper ... illam doctrinam magni augustini ... qui timet hominem ... quia ... facile ... et ... 7 ... fieri judex nisi virtute valeas irrumpere iniquitates ... ut exponit ... in cap. 2 ... glosa ... bobadilla in politica lib. 2 cap. 2 n. 24 ... |

[illegible]

+ ex illo ecclesiastes cap 4 usque ad mortem certa pro iustitia

++ et promittit premium pro tali observatione iustitie, ut refertur in evangelio sancti mat[thei] ci cap 5

cap 19 loquens cum iudicibus ibi nec quemquam mortalium formidetis
quia iudicium domini est, et in libro esther cap 9 sit iudex
ipse iustus ut nulli subiaceat vitio gravi, et fortis et constans
constans in exhibendo quod debet, ne vereatur magnitudinem cu
iuscunque, quia nemo est qui resistat maiestati sue + et iudex qui
contra potentes iustitiam facere promittit deus defensionem illius
ut ex libro ecclesiastici constat cap 24 ++ david rex in psalmo 117 ubi dominus mihi
in adiutorem et non timebo, paulus ad romanos cap 8 si deus pro nobis
quis contra nos ~~[illegible]~~
~~[illegible]~~
~~[illegible]~~; et in recommendatione iustitie, refert quoddam factum
sanctus antoninus archiepiscopus florentinus in 3 parte sue historie
tit 9 cap 1 in principio de quodam gentili et pagano viro qui post plurimos
annos mortuus, incorruptus repertus fuit propter admirabilem
observantiam iustitie, et loquutus fuit quod propter eam a deo non
passus fuit penas inferni, et sic petebat baptismum ut possit [illegible]
videre regno celorum et cum baptisatus esset mortuus fuit, narrat
eandem historiam [illegible] cap 2 [illegible] glosa in iustitia
[illegible], et etiam refert aliud exemplum cassaneus in catalogo glorie
mundi parte 5 consideratione [illegible] versiculo ex hac iustitia ubi sanctus
gregorius pontifex deprecatus est a domino pro traiano imperatore
propter eius iustitiam et pietatem, ut liberaret eum a penis
inferni, et propter specialem misericordiam dei fuit liberatus
ut refert late bobadilla referens doctrinam sancti ioannis
damasceni et aliorum scriptorum in politica sua lib 2 cap 2 nu 54
~~[illegible]~~ hec exempla et auctoritates sanctorum [illegible] iudices debent in
[illegible] servare iustitiam in causis suis [illegible] et non moveri [illegible]
potentium contra iustitiam pauperum [illegible]
miserabilibus quia vox ipsorum penetrat celos et a deo domino
auditur iuxta illud ecclesiastici cap 35 ubi ~~[illegible]~~ penetrat
nubes, et non descendit donec audiatur, [illegible]
[illegible] sanctus ioannes chrysostomus homilia [illegible]
illi procedit quando pauper [illegible]
re, etiam si [illegible] vociferari [illegible]
[illegible] clamor in excelsis auditur [illegible]
[illegible]
noster textus ne iudex accipiat [illegible]
iudicio ~~[illegible]~~ quia [illegible]
[illegible] cap 16 et [illegible]
[illegible] sapientium [illegible] cap 5 [illegible] ve qui
[illegible] iustificatis impium pro muneribus, et iustitiam iusti auferitis ab eo

nam iustitia auro violatur et reus nulla lucis spem pertinuerit ...
numinis redimere existimat ut probat divus Isidorus lib. 3 sententiarum
...cap. 58. siquidem iudex corruptus qui contra proximum ...
... non solum proximo sed ipsi deo ...

argumento textus in cap. 1 de crimine falsi ... videlicet qui in tot praesumit offendere ... iudicium
iustitiam indebitum officii et in humana naturam, ...
...; ideo pluribus poenis punitur veluti
poena ... ad ... et ab exemptione officii iudicialis ut condemnandus
infamia ... legis, ne minus ... delicto pluribus
irrogatur, quam ... castigetur =
tot praesumit offendere poena multiplici castigetur

Nisi enim praemissis et ratione decidendi relata ... ad solutionem argumentorum deveniamus ... quaestiones aliquas ...
quas ... textus solent interpretes ... primo sit an iudex ...
pecuniam ... committat simoniam, ...
... in cap. ... et ... in cap. ...
... ac enim quod in causis ...
... committitur simonia, in causis vero spiritualibus ...
... beneficialibus ... spiritualibus ...
Capitulum ... et quando ... simonia committitur ...
veluti ... pecuniam ut habeat sententiam pro se, quia ...
... spirituale pro temporali ...
... causa matrimonialis ... simoniam
... pecunia pro matrimonio ...
... in cap. ...
ut confirmat ... quidquid ...
... in verbo consolatione ... cap. ...
in verbo ... cap. ... quaest. 2 cap. honorantur 32
... 3 ... in dicto cap. honorantur ... abbas ...
... dedit ... pecuniam ut ...
... matrimonium ... matrimonii poterit ...
... invenire ... matrimonii ... sacramenti ecclesiae
pecunia ... simonia ... sacramentis ... doctrina ...
... committitur simonia ...

num. 19

num. 20 ... simonia committitur ... ex parte iudicis, quia ex parte litigatoris ... pecunia ... ... iustitiam in causa facilius ratio est quia ... pecunia pro spirituali non ... simonia ... ...

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aliqui dicunt quod propter onera matrimonii, leg. pro ... [illegible]
iurisdictionem = alii autem dicunt quia pecunia possit dari pro eo quod in
hoc sacramento matrimonii non confertur gratia spiritus sancti sicut
in aliis, ut ait glossa in dicto cap. honorantur 32 quaest. 2 in verbo honoran-
tur, glossa etiam capitibus quidquid invisibilis 1 quaest. 1 cap. commuta-
tor 32 quaest. 2; sed haec intelligentia non est sufficiens, duabus ex causis: prima
quia in sepultura et in funeralibus gratia spiritus sancti non confertur
et tamen si detur pecunia simonia committitur cap. quaesitum
13 quaest. 2 cap. non satis 8 cap. ad apostolicam 42 de simonia cap. abolendam
de 13 de sepulturis; ... secunda causa est, quia
omnia sacramenta ecclesiae tam matrimonium quam cetera con-
ferunt gratiam ex se ut est decisum ex variis conciliis scilicet
ex [illegible] 1 canone 8. ex arausicano 2 canone 25
ex ancyrano canone 12 et tandem ex tridentino sessione 7 de
sacramentis in genere canone 5 et 8. ibi si quis dixerit per ipsa
novae legis sacramenta ex opere operato non conferri gratiam
anathema sit; idem concilium tridentinum sessione 24 de sacramen-
to matrimonii canone 1 ibi si quis dixerit matrimonium non
esse vere et proprie unum ex septem legis evangelicae sacramentis a
Christo domino institutum, neque gratiam conferre anathe-
ma sit. illustrant hanc veritatem doctores, Torrecillan-
ca de iure spirituali lib. 2 cap. 2 n. 49 idem in dicto lib. 2 cap.
14 n. ... Sanchez de matrimonio lib. 2 disputat. 10 ... eodem
tractatu cap. 42 Bonacina de matrimonio quaest. 2 puncto 1 n. 2)
divus Thomas 3 parte quaest. 62 articulo 1 = sed mihi videtur
tali modo poterit intelligi doctrina supradicta secundum
[sed potest] ... ad sextum argu-
mentum divi Thomae 2. 2 quaest. 100 articulo 2 in solutione ad sextum argu-
mentum, ait quod non est castum nec venale quod pro matrimonio con-
sequendo datur, quia in eo non datur gratia spiritus
sancti;[+] sed aliter est dicendum, cum distinctione nam dare pecu-
niam pro matrimonio ingrediendo in facie sacramenti ecclesiae
est illicitum et simoniacum erit; ... sicut etiam prohibetur accipere pecuniam
pro benedictionibus nuptiarum cap. suam 29 de simonia = ad vero [illegible] et
accipere pecuniam in quantum matrimonium est officium naturae, et
a iure naturali originem habens non est illicitum et simoniacum
et ita intelligitur quod diximus pro matrimonio consequendo dari po-
test pecunia, probat angelicus praeceptor divus Thomas 2. 2 quaest. 100
articulo 2 ad sextum, late Torrecilla de iure spirituali lib. 2 cap. 14
n. 4. et si contra hanc distinctionem obiiciatur illud ipso

[+] ut superius ma... ut reprobatum

Juris civilis quae stat apud Ulpianum in leg. [illegible] in principio ff de donat.

inter virum et uxorem, ubi dicitur quod matrimonia non debent esse ve-

nalia, et ius civile respicit solum matrimonium quatenus est [illegible]

naturali, et nihil omnino prohibet, ne veniat [illegible] ergo videtur

distinctio supra adducta non esse subtilis; in difficultati respondetur qui-

licet [illegible] in matrimonio quantum detur [illegible], hoc [illegible]

[illegible] argumento textus in cap. nemo 9 [illegible] distinct. quia

[illegible] in dotem matrimonii ~~[illegible]~~ quae potius dici-

tur quam pretium cap. honorantur 32 quaest. 2 argumento legis [illegible]

[illegible] 6 in principio ff [illegible]

etiam quod datur pro oneribus matrimonii textus in leg. [illegible]

[illegible] 20 cod. [illegible], hoc exemplo [illegible]

episcopus non consecrat ecclesiam nisi dos ecclesiae [illegible]

dicitur simoniacum cap. statuit ~~[illegible]~~ [illegible] 1 quaest. 2 cap. nemo

[illegible] distinct. † ergo similiter non erit simoniacum pecuniam

recipere vel dotem pro matrimonio [illegible]

in cap. quidquid [illegible] 1 quaest. 1 et in cap.

honorantur 32 quaest. 2 =

† cap. [illegible]

n. 21

Sed quaeritur [illegible] an ille, qui dedit pecuniam, possit pecuniam repetere

pecuniam iudici ut pro se sententiam ferret, [illegible] de vita et honestate clerico-

rum [illegible] in cap. [illegible] 10 de vita [illegible]

n. 8. [illegible] aut dedit eo animo ut iudicem corrum-

peret [illegible] sententiam [illegible], tunc cessat repetitio, [illegible]

turpitudo versatur ex utraque parte, [illegible] iudicis recipientis quam

tradentis pecuniam, # quia tunc [illegible] repetere potest [illegible]

niam [illegible] illicite [illegible]

[illegible] argumento textus in leg. [illegible] ff de [illegible]

[illegible] supra [illegible] n. 8. = [illegible] quando dedit pecuniam

ut conservaret iustitiam et ut sententiam rectam ferat, [illegible]

cap. non sane 14 quaest. 5 et in cap. qui recte iudicat 11 quaest. 3 [illegible]

ones [illegible] ut [illegible]

[illegible] sed iudex [illegible]

cap. non sane 14 quaest. 5 [illegible] in authentica [illegible]

pena iudicis qui [illegible] quod hodie [illegible]

non potest repeti cum non [illegible] quoquo modo dare pecuniam

[illegible] ex meo iudicio quod [illegible]

[illegible] qui dedit pecuniam

iudici [illegible] conservaret et sententiam ferret iuxta [illegible]

[illegible] non potest repetere quod dedit, [illegible]

ex textu in leg. 2 [illegible] ff de condictione ob turpem causam, ubi

[illegible] quod ille qui dedit pecuniam ut iudex pro eo sententiam

[illegible] quamvis bonam causam habeat, non debet concedi repetitio

pecuniae, [illegible] Ulpianus in eo textu quia dantis animus [illegible]

[illegible] ad corruptionem iudicis, et hoc est quod respondit [illegible]

cap. in pari delicto 65 de regulis iuris in 6. [illegible] 3 ff de condictione ob turpem vel iniustam causam,

~~[illegible]~~ [...] contra predicta
[...] doctrina videtur, deinde quod
[...] textus in leg. [...] de filio
[...] filius [...] §. responso
[...] ubi quidam propositus de
[...] pecunia [...]
[...] diaconi [...] ut
[...] gravaminibus et prosequen
[...] lite [...] cum non videtur
[...] [illegible]
[...] superior [...]
[...] pontifex selecti
[...] quia archidiaconus
[...] contra [...] et pro
[...] ~~potest~~
[...] pecunia data
[...] pecuniam

[...] et eadem ipse panormitanus in
[...] cap. cum ab omni de vita
et honestate clericorum [...]
[...] intellectus addicta lege
[...] §. 2 de conditione ob turpem
causam cumulavit contrarietatem
in regula peccatum de regulis
iuris in 6. §. 3 et l. dicens quod
[...] erit veram eius textus
intelligentiam prestare; unde
sequitur ex his quod non solum
litigantes debent abstinere [...]
[...] datione pecunie, si inde habeant
[...] bonam vel malam causam
[...] iudex eam accipiat quam
[...] litigans iustitiam [...]
[...] declaratam habeat
[...] spectet mercedem [...]
~~[illegible]~~ [...]
[...] administranda, quia
[...] non est materia ven
[...] ‡

+ te arbitrio in
dicandis

ulpianus meo videri in dicta leg. 2 ‡, plures alii in intellectus addictam leg.
cumulavit contrarietatem in regula peccatum de regulis iuris in 6. §. 3 dicens
quod difficile erit ~~[illegible]~~ veram eius textus intelligentiam prestare, ~~et confirmari~~
~~potest doctrina superius data quia quoniam iustitie venalis non est~~
~~iustitia est materia venditionis ‡ [illegible] de ea fieri potest ut car~~
~~[illegible] asserat in commentariis ad [illegible] 22,~~
~~quest. [illegible] textus [illegible]~~ c. de vita et honestate cleri
~~corum nam ait cicero libri de legibus~~ iniustissimum est iustitie mercede
~~[illegible]~~, ~~qui enim recte iudicat [illegible] pecunia, et premi~~
~~[illegible] fraudem [illegible] perpetrat, quia iusti~~
~~[illegible] acceptione pecunie, vendit~~
~~[illegible]~~ siquidem iustus non est qui iuste agit
[...] virtute, sed ob aliam causam ut tradit aristoteles
[...] lib. 6 ethicorum cap. 12 et [...] textus in cap. 1 de re iudicata in 6. quod
[...] exemplis [...]
potero exornare [...] auctoritatibus exemplis [...]
[...] valerium maximum lib. 6 cap. 3 et cap. 5 [...] iudicium [...]
[...] lib. 2 cap. [...] [...] unum casum satis rar[...]
[...] quo meminit ipse valerius maximus et contrarietates
~~[illegible]~~ in regula peccatum de regulis iuris in 6. §. 3 [...]
quodam rege persarum qui vocabatur cambises qui penam [...]
[...] causam iudici [...] iustitie fecit cum [...]
et pelle detracta iniqui iudicis mandavit ut poneretur in sella in qua
iudicabat, ad hoc ut filius eius qui iudex constitutus fuit
~~[illegible]~~ [...] ~~[illegible]~~ [...] nequis auderet iustitia
[...] iudex enim iste vocabatur sisamnes [...]
[...] filius autem eius [...], alia refert contrarietas
[...] ut deveniamus ad ~~[illegible]~~ solvendas
[...] que in principio nostre repetitionis contra nostrum textum
~~[illegible]~~ proposuimus =

[...] non obstant tamen rationes dubitandi supra adducte, non
~~[illegible]~~ relata in n. 3 et 4 ubi agebatur an secundum
[...] iudex debeat iudicare an secundum
[...] allegata et probata, declaravimus eam dubitationem ex [...]
[...] questionis [...] relate, = neque obstat secunda dubitandi
ratio in n. 9 relata, desumpta ex leg. finali ff. de variis et extraordi
nariis cognitionibus, quia iudex tenetur propter corruptionem non
[...] in estimationem litis veruntamen extra eam quantum [...]
[...] iudicandis ~~[illegible]~~ visum fuerit siquidem eo modo
[...] infamia [...] graviori pena multandus
erit leg. 2 cod. de pena iudicis qui male iudicavit, ita intelligun[tur]
textus in dicta leg. finali et in ‡ principio institut. de obligationibus
que ex quasi ~~[illegible]~~ delicto nascuntur ut notabit, antonius faber in [...]
[...] ad textum in leg. filius familias §. [...] de iudiciis [...]

neque obstat argumentum dubitandi in predicto n. 5 quia quamvis verum sit quod sententia data contra ius, scilicet contra perquisitum et petitam, ipso iure nulla est, iuxta textum in leg. venales 7 cod. quando provocare non est necesse, et ex iuribus et auctoritatibus quas cumulat Bobadilla in sua politica libro 2 cap. 11 n. 31 littera a, tamen propter hoc non excusatur iudex ut reicientibus propter partes lese, quia in penam iudicis corrupti statutum est, ut in nostro textu in illa parte, defendentiale scindicata in leg. finali ff. de variis et extraordinariis cognitionibus, ~~[illegible]~~ ~~[illegible] ut nullitas sententie~~ declaretur, ~~[illegible]~~ ita quia facultas litigandi conditio est [illegible] litibus iudicis re[+] quam plurimo labore et expensis nullitate sententie per appellationem professus aliud et docte excogitavit Antonius Faber in rationalibus ad legem familias 14 §1 ff. de iudiciis littera a in fine, et Baldus in leg. venales 7 cod. quando provocare non est necesse in n. 6 adducta [illegible]

[+] tempore sindicatus vulgo quando est in sindicado o residencia — n. 23

neque obstat altera ratio dubitandi in n. 6 adducta [illegible]

~~[illegible] corruptus pluribus penis [illegible]~~ ex leg. ~~[illegible]~~ senatus 14 ff. de calumniatoribus, leg. sanctio legum 41 ff. de penis, cap. at si clerici §4 de adulteriis et de iudiciis, ubi dicebatur quis ex uno delicto duplici pena puniri non debet, cui enim dubitationi facile respondetur, quia quamvis in nostro textu in illa parte iudicaturum in 6 videatur quod crimen iudicis corrupti propter enormitatem eius multiplici pena castigetur, ~~[illegible]~~ et concurrant plures pene in tali crimine per leges et canones, tamen iuxta veriorem sententiam, una solummodo punitur ex arbitrio iudicis vel omnes imponere si ex qualitate delicti necessarium iudici visum fuerit, quia quando concurrunt plures pene ad unum delictum censentur una alteri addita ~~[illegible]~~ secundum Bartolum ~~[illegible]~~ sanctio legum 41 ff. de penis ideo totum arbitrio iudicis relinquitur ex predictis penis unam quam maluerit infligere, itaque non facit ratio dubitandi supra relata, ut docte explicat Cevallos (?) Tiberius Decianus 2 tomo in praxi criminali lib. 8 cap. 39 n. 18, Farinacius in praxi criminali quest. 11 articulo 6 n. 80 — tamen hac solutione omissa in dico propter auctoritatem nostri textus et in predicta [illegible] punitur pena si punitus sit ... lex corruptus sine eo quod iudici relinquatur arbitrium, ad ... quemlibet penas, nam quando ex uno facto plures ... labuntur penas correspondentes ... debent imponi, Bartolus in leg. instigando 68 ... ff. de furtis n. 3 et 9 — cap. ... quest. 4 cap. attendendum ~~[illegible]~~ cap. si quis deinceps ... quest. 4 cap. in archiepiscopatu de raptoribus, cap. qui iuxta ... quest. 6

cap. cum fortius de calumniatoribus cap. quoniam contra [illegible] pene

[illegible] ideo quia in nostro textu ex facto iniustitie plures

offendit iudex scilicet deum, iustitiam et humanam

naturam quia contra proximum est corruptus ergo pluribus penis simul

puniri debet, ut in nostro textu punitur scilicet suspensione per annum

ab officio et iurisdictione et amplius quod teneatur ad [illegible]

litis parti lese, et alie pene que per leges statute sunt non excludantur,

et potest confirmari elegantissime predicta

solutio ex textu in cap. 1 de crimine falsi ubi similiter tribus

penis punitur textus falsificus quia tres personas offendit, primo

quia deum offendit, septennis penitentia sibi iniungitur propter

iussio cap. quicumque 6 quest. 2, secundo quia iudicem deluserit infamis

et verberibus castigabitur cap. omnis qui 5 quest. 6

cap. illi qui 15 quest. 9, tertio quia proximum ledit in textu

modum lesionis punitur argumento textus in cap. nihil omnino

3 quest. 9 ergo [illegible] in nostro textu quod plures penas [illegible]

iter iudex corruptus neque una alteram [illegible]

debet cum ex iniustitia plures offendit, similiter potest adduci

in confirmatione textus in leg. si adulterium cum incestu 38 ff. [illegible]

ff. ad legem iuliam de adulteriis, ubi glossa et bartolus dicunt quod si

committatur adulterium cum incestu duplici pena punitur, ratione

adulterii et ratione incestus quia quotiescumque ex uno facto

duo delicta committuntur duplici pena multari debet; ex hac

doctrina nihil faciunt textus in leg. senatus [illegible] ff. de [illegible] et

leg. [illegible] ff. de penis et cap. at si clerici [illegible] de adulteriis

[illegible] quia loquuntur de crimine quod nec plures offendit

[illegible] quia loquuntur de crimine quod nec plures offendit

nec ex facto plura delicta resultant [illegible] una

pena non pluribus punitur delinquens; [illegible] ad hanc doctrinam

videre poteris apud petrum de [illegible] in explicatione

nostri textus et apud farinacium tertia parte in praxi criminali

quest. 111 n. 88 cum sequentibus =

nu. 24

neque obstat ultima ratio dubitandi in num. adducta

nam facile respondetur ad textum in cap. statutum 11 § insuper de rescriptis in 6

ibi iudex delegatus pontificis in dicto § insuper potuit [illegible] et [illegible]

[illegible] recipere, quia iudex delegatus stipen

dium habere non debet, merito igitur cum delegatus [illegible]

[illegible] nec salarium ei esset assignatum nihilominus

[illegible] in locum stipendii possit [illegible]

et parva illa munera recipere; sed hec solutio enervari videtur, ex cap.

cum ab omni 10 de vita et honestate clericorum ubi iudices delegati nihil

recipere
possunt nec esculenta et poculenta, ratione prestat pontifex quia ad ~~[illegible]~~ ipsis deputati sunt reditus ecclesiastici ut ex ipsis [illegible] vivere debeant; at hic est quod eadem ratio debet militare in textu in cap. statutum § insuper de rescriptis in 6. adhuc ut nihil recipiat quia delegatus semper habet reditus ecclesiasticos ex prebenda [illegible] et dignitate ~~[illegible]~~ quam habere debet ut delegatus fiat ex dicto cap. statutum de rescriptis in 6. ergo in nullo casu esculenta et poculenta delegatus recipit percipere, sed huic dubio facile responderetur quia textus in § insuper dicti capitis statutum ibi loquitur et debet intelligi quando delegatus fuit laicus [illegible] non habebat prebendam ~~dicit pontifex in eos permittit~~ ~~[illegible]~~, ex speciali gratia et dispensatione dicit pontifex in eos permittit ea parva munera recipere ut [illegible] hanc interpretationem insinuarunt moderni commentatores ad dictum § insuper ~~[illegible]~~ Augustinus Barbosa in collectanea ad textum in cum Adornini de vita et honestate clericorum ~~[illegible]~~; sed iterum dubitatur quia delegatus iuxta doctrinam nostri textus in ~~[illegible]~~ in cap. 1 de sententia et re iudicata in 6 nihil gratis recipere potest ex illis verbis siquis autem iudex ecclesiasticus ordinarius aut etiam delegatus famulus suus vel aliquis quidquam fecerit per quem sententiam executioni officii eius ubi delegatus iudex nihil recipere debet quam tum munera parva gratis ~~[illegible]~~ concessa sunt ergo non gratis videtur remanet dictus § insuper dicti capitis statutum, siquidem in nostro textu absolute denegatur iudici delegato munera accipere sive habeat vel non habeat prebendam, beneficium vel dignitatem cui difficultati difficile erit respondere sed ab ea ita me expediam, quia noster textus in cap. 1 loquitur de iudice delegato ab ordinario ad universitatem causarum,+ et cum ordinarius tenetur ei denegari [illegible] videre et salarium capitur e nil mirum ut in nostro textu delegatus munera accipere, ulterius quia consistorium ordinarii est consistorium delegati ~~[illegible]~~ reputatur cap. romana § de appellationibus in 6. glossa in dicto cap. statutum § insuper ~~de rescriptis~~ in 6 verbo modicus in fine. ad vero textus in § insuper loquitur de iudice delegato a sede apostolica qui nullum salarium habet dicit permittitur ei munera parva accipere quia non debet iudex delegatus ex officio suo damnum sustinere argumento textus in leg. ~~[illegible]~~ ~~[illegible]~~ leg. idem [illegible] § idem Labeo ff mandati leg. si servus ff de [illegible] quod vero ff de furtis; ++ siquidem credendum est quod in absentia iudex delegatus non percipiet reditus prebende, vel dignitatis precipue [illegible] et distributiones quotidianas + cap. de cetero de clericis non [illegible]

+ vel ad causas speciales secundum doctrinam [illegible] cap. cum ad [illegible] de vita et honestate clericorum

++ leg. absentia l. 90 de regulis iuris.

+ etiam si concedamus in dicto § insuper habuisse prebendas delegatum –

20) ex hac doctrina propono praecipuum generale quod omnis irregularitas [illegible] vel ex defectu vel ex delicto constituitur, id est in canonicum statutum, et in quibus casibus qui irregularitate notatus est, non possint [illegible] ad ordines veluti filii illegitimi, bigami, homicidae, [illegible] et sunt in iure canonico, et suspensus ingerens se divinis, ut [illegible] in nostro textu; sed ab aliquibus solet dubitari an etiam per sententiam iudicis possit imponi poena irregularitatis; dicebant enim quod poterat ea ratione, quia sicut excommunicatio vel censura imponitur a iure et etiam a iudice cap. sacro 48 de sententia excommunicationis ubi doctores in eodem; ergo eodem modo poterit imponi irregularitas non solum a iure verum etiam a iudice; sed contrarium non obstante hoc argumento dicendum est, quia irregularitas non [illegible] tantum a iure imponitur, ex eo quia irregularitas non [illegible] nisi in casibus a iure expressis iuxta citatum caput [illegible] 18 de sententia excommunicationis, et communiter [illegible] [illegible] imponi irregularitatem, nihil mirum quod non possit imponi a iudice, sicut iussit in excommunicatione [illegible] [illegible] de homicidio, quamvis [illegible] incurrere irregularitatem, secundum quod est dispositum a iure [illegible] [illegible] in clementina unica de homicidio, [illegible] disputat hoc [illegible] [illegible] disputat [illegible] sectione [illegible]

Ad 2 de omnibus iis irregularitatibus quae a iure imponuntur dispensare non potest nisi romanus pontifex ex [illegible] in nostro textu et aliis supra citatis; [illegible] nisi irregularitas contra [illegible] [illegible] excipere [illegible] super qua irregularitate dispensare potest episcopus excepto homicidio iuxta [illegible] decisionem concilii tridentini sessione 24 de reformatione cap. 6 ubi [illegible] augustinus barbosa in eius remissione [illegible] hominis = notandum omittere aliquos casus quamvis [illegible] suspensus ille iudex non incurrat in quibus [illegible] irregularitatem quamvis [illegible] exerceat [illegible] quae [illegible] [illegible] videntur pertinere ad suum ordinem et officium; primus est casus quando suspensus exercet munus conferendi baptismum ex necessitate nam [illegible] non exercetur ut munus sacerdotale sed ut commune cuilibet laico siquidem in necessitate quilibet laicus conferre potest baptismum, nec est mirum quod suspensus non incurrat irregularitatem ut docet [illegible] [illegible] disputat [illegible] sectione [illegible] et 20 [illegible] de censuris parte 1 disputat 10 sectione 2 dub. 2 = secundus casus est quando suspensus legit epistolam vel evangelium non solemniter sed [illegible] [illegible] non incurrit irregularitatem ratio est quia hoc facit tanquam laicus non tanquam sacerdos [illegible] legendi evangelium est actus [illegible] [illegible] potest laicus; si [illegible] sepelivit defunctum in loco sacro omisso divino officio non contrahit irregularitatem, item benedicens mensam vel fontes non fiet irregularis cum talis actus non sit proprius alicuius ordinis = [illegible] ordinis proprii et qui [illegible] exerceri nisi ab habente

ordines si sacerdos suspensus eos actus exerceat sine solemnitate et cum [illegible] incurrit irregularitatem, veluti si omissa omni solemnitate conficeret eucharistiam, vel sacramentum extremae unctionis administraret, ut docet animadvertens [illegible] corriguntur sessio 1 a d. [illegible] de clerico excommunicato [illegible] in fine; e contra si eum suspensus ministrans sacramentum confirmationis non solemniter incurrit irregularitatem quia actus ordinis est sacerdos suspensus vel excommunicatus absolvens paenitentem sacramentaliter [quamvis] solemniter sit irregularis quia proprius est actus ordinis sacerdotalis exhibicatur quod iste suspensus nulliter impartitur absolutionem propter suspensionem et excommunicationem [illegible] irregularis est quia [illegible] [illegible] est actus ordinis sibi prohibito, ratiocinatur doctor [illegible] disputat 11 sectione 3 n. 12, alios casus speciales doctores [illegible] prosequitur praedictus, et remissive corriguntur [illegible] in commentario ad [illegible] de clerico excommunicato ministrante

n. 17 Limitant in nostro textu suspensionem generaliter [illegible] et [illegible] n. 4 dicentes quod praedicta suspensione officii non extenditur ad beneficium sed tantum intelligitur de ordinibus et [illegible]

[doctrinam] eam ex communi antiquorum interpretum prodiderunt recentiores veluti [illegible] cap. 27 n. 60 dicentes [illegible] disputat 26 sectione 3 a. 4 navarrus in summa cap. 27 n. 60 dicentes [illegible] suspensus a beneficio idest [illegible] suspensus ab executione officii non intelligitur suspensus a beneficio [illegible] [illegible] fructibus sui beneficii, exceptis distributionibus quotidianis quae non dantur nisi assistentibus divino officio cum [illegible] [illegible] unico de clericis non residentibus et assistentiae actuali divino officio cap. unico de clericis non residentibus in 6. concilium tridentinum sessione 22 de reformatione cap. 22 [illegible] [illegible] lib. 3 variarum cap. 12, et confirmant [illegible] [illegible] auctores opinionem [illegible] [illegible] ecclesiastica congregatione [illegible] cap. inter [illegible] de purgatione canonica [illegible] [illegible] ad purgationem canonicam, [illegible] [illegible] aliquos tantum ab officio suspendat [illegible] [illegible] [illegible] in textu qui propter [illegible] [illegible] pontifex ~~[illegible]~~ episcopi [illegible] [illegible] [illegible] suspenderat [illegible] etiam a beneficio, unde colligunt [illegible] auctores [illegible] suspensionem a beneficio [illegible] sub suspensione ab officio nisi exprimatur, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quia poenalia sunt stricte interpretanda; rationemque etiam [illegible] quia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] — sed contrarium est dicendum [illegible] [illegible] [illegible] [illegible] [illegible] dicta quaest. 11 n. 16, quod suspensio ab officio includit etiam suspensionem a beneficio [illegible] ratione [illegible] quia [illegible] esset nimis levis poena suspendere [illegible] [illegible] beneficiatum ab officio duntaxat, quia per hoc non desineret [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et quod peius esset non serviens altari [illegible] suspensione officii de altari viveret contra doctrinam textus in cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 12 quaest. 1 cap. charitatem [illegible] cap. [illegible] [illegible] [illegible] [illegible] cap. ecclesiasticis 12 quaest. 2 [illegible] paulus [illegible] [illegible] cap. 9, [illegible] [illegible] [illegible] cod. [illegible] [illegible] [illegible] [illegible] [illegible] ~~[illegible]~~ [illegible] [illegible] [illegible] [illegible] in [illegible] [illegible] limitant etiam [illegible]

Margin notes:

+ [illegible] [illegible] [illegible] 3 disputat 2 [illegible] [illegible] 6

[illegible] [illegible]

simoniā ~~[illegible]~~ contrahitur, ut notavit Abbas in dicto cap. cum ad monasterium de vita et honestate clericorum n. 7 idem Abbas [illegible] in cap. dilectus filius 18 de simonia; si vero detur pecunia post iam quaesito et obtento beneficio ad tollendam vexationem ~~[illegible]~~ quae provenit tollendo ei ius iam quaesitum (?), non committitur simonia, dando in totali casu (?) [illegible] ut tradit cum multis pater Suarez tom. 1 de religione lib. 4 de simonia cap. 50 n. 2, [illegible] pater Suarez, quia ille qui pecunia redimit vexationem sibi illatam, non dat pecuniam pro aliqua re spirituali, sed pro vitanda iniuria et vexatione, ~~[illegible]~~ non pro re spirituali iam acquisita, atque dando non acquiritur; sed contra hanc doctrinam est textus in cap. Matthaeus 23 de simonia ubi quidam legitime electus ~~[illegible]~~ a maiori parte eligentium quia pecuniam dedit paucis qui in electionem suam non consenserant, ne vexatio vel iniuria ei irrogaretur, simoniacus censetur, et tamen iam habebat ius quaesitum et adquisitum per electionem, ergo non est verum principium quod pro redimenda vexatione dari possit pecunia sine labe simoniae, ‡ in re spirituali iam acquisita; omissis aliis solutionibus respondeo quod in dicto cap. Matthaeus non fuisse licitum pecuniam dare quia electus nondum fuerat confirmatus, nec possessionem beneficii adeptus, et complene ius [illegible] nondum acquisierat, nil mirum, ut in labem simoniae incurrisset; ~~[illegible]~~ quando vero plene ius quaesitum est tunc procedit doctrina quod potest redimi vexatio absque simonia; plura congessit circa redimendam vexationem et in quibus casibus sit licitum Barbosa in collectanea ad dictum caput Matthaeus n. 3 cum sequentibus, + [illegible] lib. 2 canonicarum quaest. cap. 23 n. 31 cum sequentibus pater Suarez primo tomo de religione lib. 4 de simonia cap. 50 per totum qui voluerit (?) videat eos circa praedictam doctrinam,

‡ quam requisivit (?) pro re

‡ vel [illegible]

+ idem Barbosa in collectanea ad caput ad aures (?) 24 de simonia

+ de prima de decim[is] non residentibus in 6.

non residentibus cap. dicere de prebendis can. [illegible] de rescriptis in 6 [illegible]: itaque esculenta et poculenta et parva munera recipere possunt isti delegati [illegible] de [illegible], [illegible] de dolo [illegible] [illegible] [illegible] [illegible] itaque [illegible] in [illegible] exiguis versiculo 29. [illegible] [illegible] de axiomatibus litera m n. 99 [illegible] #

[illegible] cap. statutum § insuper de rescriptis in 6 n. 90.

[illegible] noverit iudicem commune propter modicum obsequium et parvum munus cap. et si quis [illegible] de [illegible] leg. 2 cod. de [illegible] iudicium [illegible] ibi quod non arbitramur # [illegible] [illegible] debet [illegible] leg. fidelium § [illegible]

[illegible]

leg. 6 ff. de dolo, quas rationes [illegible] glosa [illegible] cap. statutum § insuper de rescriptis in 6 in verbo consueta [illegible] in leg. 6 tit. 4 part. 3 glosa 3 [illegible] [illegible] [illegible] [illegible] n. 10 # et [illegible] bobadilla in sua politica lib. 2 cap. [illegible] n. 45, quae rationes totaliter debent cessare in iudicibus ordinariis et in delegatis [illegible] quia salarium eis destinatum [illegible] [illegible] [illegible] [illegible] textum [illegible] [illegible] [illegible] cap. [illegible] in 6 =

[illegible] et promissis [illegible] gratia [illegible] n. 35

n. 25

+ alia [illegible] leg. 20 tit. 19 lib. 2 ordinamenti

nec obstat lex [illegible] tit. 19 lib. 2 ordinamenti, + ibi [illegible] [illegible] lex 3 tit. 19 lib. 2 ordinamenti [illegible] [illegible] [illegible] nam dicemus quod ille textus [illegible] loquitur de iudice ordinario, sed de aparitoribus quos vulgo vocamus alguaziles quia aparitores vel alguazili dona ista accipere [illegible] [illegible] [illegible] ratio differentiae [illegible] in aparitoribus nullum periculum perversionis [illegible] est [illegible] in aparitoribus nullum periculum perversionis [illegible] considerari [illegible] iudicibus [illegible] considerari potest; [illegible] ordinariis [illegible] [illegible] ad dictas leges regni [illegible] n. 98 = nec obstante cap. statutum § insuper de rescriptis in 6 = nec obstante [illegible] leg. [illegible] textus in leg. solent 6 § non vero 3 ff. de officio proconsulis leg. [illegible] 18 ff. de officio praesidis; quia loquuntur de iure antiquo [illegible] [illegible] ubi permittebantur illa parva munera accipere nonpetita [illegible] oblata, ita exigua ut [illegible] [illegible] [illegible] [illegible] [illegible] abrogata [illegible] [illegible] [illegible] per authenticam ut iudices sine quo suffragio § [illegible] per authenticam ut iudices sine quo suffragio [illegible] [illegible] [illegible] scilicet esculenta et poculenta

+ menochius/ de arbitra
riis cas. 96 n. 3-

prohibita fuerunt ut constat ex constitutione authentica, tamen ita

eam explanavit optime augustinus barbosa in collectanea ad

[illegible] in illa cum ad omni levitate et honestate clericorum [illegible]

[illegible] ibi [illegible] nihil faciunt contra [illegible] conclusionem [illegible]

[illegible] = neque etiam obstat albergeria ~~[illegible]~~ in ultima [illegible]

auditam adductis ex cap. romana [illegible] deinde [illegible]

de censibus in 6. ~~[illegible]~~ nam ratione specialis [illegible] in dictis [illegible]

[illegible] conceduntur studentibus [illegible] tempore visitatio-

[illegible] quia cum visitatores spiritualia seminant in [illegible]

[illegible] visitant [illegible] ab eis victualia [illegible]

~~[illegible]~~, tum in ipsis [illegible]

[illegible], tum etiam ut facilius invitentur ad visitationem [illegible]

[illegible] ex ~~[illegible]~~

~~[illegible]~~, propter has causas [illegible]

[illegible] talia [illegible] et [illegible]

[illegible] procurationis nomine, dummodo in pecunia non

[illegible] et [illegible] iuxta textum in dicto cap. [illegible]

[illegible] de censibus in 6. augustinus barbosa de [illegible]

[illegible] lib. 3 cap. 22 n. 1; nisi partes visitatae consenserint, ut in pecu-

procuratio detur iuxta textum in cap. felicis 3 de censibus in

cum textu et cap. 1 de procurationibus et cap. [illegible] ex [illegible] de

censibus in 6. explicat late augustinus barbosa de [illegible]

episcopi 2 parte allegatione 73 n. 98 = Cum his finitur [illegible]

repetitio anno domini 1612 ~~[illegible]~~ in laude et honorem

omnipotentis dei et sanctissimae virginis mariae, absque

peccato originali conceptae; amen =

[illegible]

Respondetur ad textum in cap. cum dilecto [illegible] de sententia [illegible] final. hoc est [illegible] in [illegible].

[marginal note: [illegible]]

[illegible] ... sententia diffinitiva erit nulla si in scriptis non pronunciatur [illegible] ~~[illegible, struck through]~~ ~~[illegible, struck through]~~ ~~[illegible, struck through]~~ et similiter erit nulla sententia [illegible] ... quando [illegible] ... ex [illegible] ... cap. quoniam contra [illegible] ... [illegible] ... glossa in [illegible] cum dilecto [illegible] ... cum dilecto ad textum [illegible] ... [illegible] ... in cap. de sententia [illegible] 21 et 22 ... [illegible] ... et in cap. [illegible] ... [illegible].

[marginal note: n. 2]

[illegible] ... argumentum ex textu in cap. [illegible] ... in scriptis et valuit [illegible] ... [illegible] ... et in cap. [illegible] ... [illegible] ... sententiam [illegible] ... [illegible] ... ergo [illegible] ... non erit nulla sententia si in scriptis non pronunciatur.

[illegible] ... ex textu [illegible] ... [illegible] ... quod [illegible] ... iudices qui de causa [illegible] ... et pronunciare sententiam [illegible] ... ~~[illegible]~~ ... sententiam [illegible].

[marginal note: n. 3]

[illegible] ... ex textu in cap. [illegible] de electione [illegible] ... quod electio facta [illegible] ... sufficit quod [illegible]

a primo deklaretur vel promulgetur electi, ita tamen [illegible]
habit nominatus in sententia, vel ratione [illegible]
idem dicendum est in iudicibus tam ordinariis quam ordinariis ut [illegible]
proferens sententiam nomine alieno, in hoc tamen singulari [illegible]
[illegible] velut [illegible] condemnatio, non [illegible]
scilicet nos condemnamus =

[illegible] iudicis in [illegible] de [illegible], [illegible]
[illegible] consequen[illegible] ad [illegible] decidendi [illegible]
[illegible] fuit primo quod sententia definitiva in scriptis [illegible]
[illegible] leg. 2 et 3 cod. de sententiis experiendo [illegible] et [illegible]
[illegible] in textu [illegible]
sententia [illegible] vim definitive habent, [illegible]
[illegible] videtur contrarium affirmare textus in [illegible] quoniam contra [illegible]
[illegible] ubi in eo textu mandatur quod iudex debeat habere notarium
ut controversia iudicialis scilicet petitiones, allegationes [illegible]
tot et [illegible] in scriptis redigantur ut constet semper de veritate processus
sed in eo textu non [illegible] mentio quod sententia in scriptis redigatur
ergo videtur excepta et consequenter non erit [illegible]
non redigatur, ad quod respondetur, [illegible] in predicto textu [illegible]
[illegible] contra comprehendit, sententiam definitivam ut in scriptis [illegible]
ut colligitur ex illis verbis et conclusiones et cetera que occurrerint [illegible]
[illegible] videtur quod conclusio cause in scriptis ponatur, cetera quoque [illegible]
est sententia et appellatio et similiter ex mandato pontificis in [illegible]
redigenda ut doctissime notavit [illegible]
[illegible] =

n.° 5

[illegible] requiritur ut sententia proferatur in scriptis, veluti a magistro definitio [illegible]
[illegible] leg. idest [illegible] modo, ad hoc enim iudex debet inspicere [illegible]
[illegible] personarum [illegible] et [illegible] requiritur in iudicis [illegible]
[illegible] vel debet iudex [illegible]
inspicere consuetudinem loci vel fori cap. consuetudinis [illegible] ut [illegible]
animadvertit glosa in cap. finali [illegible]
[illegible] in causis summariis et de plano [illegible]
et [illegible] quomodo tractandi sunt [illegible]
in scriptis [illegible], agit [illegible] Barbosa de clausulis [illegible] finali de [illegible]
clausula 176 item Barbosa in clementina [illegible] dispendiosam in [illegible]
[illegible] et in clementina [illegible]

alias [illegible] sententie definitive, [illegible]
in nostro cap. finali. primo [illegible] est quod iudex [illegible] non legerit [illegible]
[illegible] vel [illegible] communicaverit, [illegible] tantummodo [illegible]
iudex [illegible] committere, [illegible]
[illegible] propter prerogativam [illegible] dignitatis [illegible] illustrium personarum, que [illegible]
[illegible] sententias [illegible] notariis [illegible]

[illegible]

‡ [illegible] de arbitrariis lib. 2 casu 68 et 72 n.° 10 Flaminius Parisius [illegible] filiorum [illegible] n.° 144.

n.° 6

Barbosa [illegible] de libellis [illegible] n.° 43 [illegible]

[illegible] tur dispare
[illegible] iudex [illegible] est [illegible]
[illegible] habere [illegible]
est [illegible]
[illegible] pronunciandi
[illegible] et recitare
[illegible] manere [illegible]
[illegible]
recitetur, ergo non est [illegible]
[illegible] textus
[illegible] ergo. Item quod
[illegible] casu [illegible] vera
recitari et pronunciare senten
tias [illegible] recitare [illegible]
[illegible] iustitia
[illegible] tribunali iubendo proferri.

acceptu[m] in nostro textu.

in leg. 2 Cod. de sententiis ex periculo recitandis # [illegible] alter
[illegible] sententias consideravi [illegible] casu [illegible] quando iudex pro
nunciaverit eam stando [illegible] nam
ideo hoc ut nullitas evitetur pro tribunali sedendo debet recitare sen
tentiam, quia in tribunali sedendo maturitas sententiae consideratur, [illegible]
[illegible] et [illegible]
[illegible] [illegible] movetur [illegible] movetur an
ima [illegible] rationis sedem sedet anima [illegible]
[illegible] intellectum [illegible] aristoteles in lib. [illegible] quod
[illegible] sit anima [illegible]
[illegible] intellectus [illegible] operam, [illegible]
ad [illegible] sententias et [illegible] introducta est [illegible]
honore iudicum et [illegible]
gravitas, # introducta et ob reverentiam [illegible] iudicum [illegible]
ut in leg. [illegible] cod. de [illegible] ; [illegible] doctrinam
nostri textus [illegible] quod si iudex [illegible] habeat [illegible]
ut sedere non possit [illegible] sententiam stando, [illegible]
valida erit sententia iuxta doctrinam hieronimi [illegible] eadem
[illegible] cancellarie glosa 60 n. [illegible] ; [illegible] quod
[illegible] quod in tali casu sententia valet quia [illegible] est casus
[illegible] nostri textus propter [illegible]
animadvertit [illegible] sedendo [illegible]
leg. 1 Cod. de sententia ex periculo recitanda [illegible]

sed hodie secundum [illegible] quod practicatur non est
necesse sententiam legi per iudicem [illegible] sedendo, prout
in nostro cap. [illegible] requirebatur, sed sufficit per notarium legi, neque
necessarium est quod pronuncietur sententia sedendo pro tribunali
et hoc est quod observatur ferme in omnibus tribunalibus, neque
ex eo nullitas sententiae consideratur licet in foro ecclesiastico [illegible]
[illegible] quando [illegible] propter [illegible]
nostri textus [illegible] tribunali [illegible]
ut docte animadvertit [illegible] in leg. 10 [illegible] 17 lib. 4 recopilationis
n. 14 usque ad n. 18

n. 8

Sequitur nunc explicatio ultimae partis nostrae con
clusionis nam quando [illegible] iudices arbitri [illegible]
[illegible] ad determinationem [illegible] causae, unus ex iis [illegible]
[illegible] sententiam, sed ipse debet
consentientibus aliis [illegible] recitare sententiam [illegible] numero [illegible], veluti nos
pronunciare et recitare [illegible] numero [illegible] etc. [illegible]
iudices condemnamus [illegible] etc. [illegible] pronuncietur
[illegible] quia nomine omnium iudicum [illegible] nam tunc [illegible]
[illegible] in numero singulari [illegible] excepcionem [illegible]
sententia [illegible] nullitate agretur [illegible]

textus in cap. cum ad unum 4 de sententia et re iudicata in 6; sed contrarium [illegible]
tam Rota in [illegible] textus in l. eos. de in [illegible] 17 [illegible] si plures 2
filii [illegible] arbitrium [illegible] ubi disponitur quod si [illegible]
sint iudices aut omnes aut nullus debent proferre sententiam; [illegible]
hic textus [illegible] ratione [illegible] invocatus
quia si observaretur ille textus assumerent iudices [illegible]
[illegible] in [illegible] sententia; [illegible]
in [illegible] cum ad unum 4 [illegible];

, ex dictis enim [illegible] stat [illegible], ll. [illegible];
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] cognoscit de causa [illegible]
non esse [illegible] necessariam, sed [illegible] electione [illegible]
[illegible] esse respondendum quod ille textus intelligendus est [illegible]
[illegible] causa civiles [illegible]
[illegible]
[illegible] = [illegible] textus in cap. al. [illegible]
ubi non negatur quod sententia [illegible] fuisset lata, sed [illegible]
[illegible] sententiae [illegible] assessoribus [illegible]
[illegible] animadversi [illegible]
notat. [illegible] = nec [illegible] stat [illegible] pontifex vel princeps [illegible]
sententiam [illegible] lare, quia cum solutus sint legibus. l. princeps. ff. de legibus,
cod. de legibus non debent attendere ad solemnitatem iuris et [illegible]
sententia pontificis vel principis [illegible] solemnitate, l. [illegible]
cod. de testamentis 4;

, nec [illegible] stat secunda [illegible], quia differentia [illegible]
est ut constituitur in [illegible] cap. cum ad unum 4, [illegible] inter electionem
per compromissum vel per [illegible] nam [illegible] electio est [illegible]
per unum numero singulari, ubi dicit ad eligo; # [illegible]
[illegible] inter [illegible] quando unus nomine aliorum [illegible]
sententiam, numero plurali debet loqui, [illegible] ut [illegible]
quia omnes intelliguntur [illegible] sententiam quamvis unus [illegible]
proferat vel [illegible]; [illegible]
[illegible] electionis [illegible], compromissum et per spiritum [illegible]
[illegible] quia propter [illegible] contingentias [illegible] de electione
[illegible] disputat [illegible]
[illegible] 4 de electione canonica cap. 19 n. 92
93, cum [illegible] in [illegible]
[illegible]
[illegible] — [illegible]

ult°

attendendum quod electio est [illegible] singularis.

Ad textum in cap. [illegible] ordine 3 [illegible]
de sententia et re iudicata in 6.

n. 1

Conclusio quae ex difficili [illegible] litera praecipue nostri textus communiter deducitur haec est: actor qui in iudicio petiit aliquam rem contractitium possessum [illegible] dicendo quod ei debe[re]tur ex causa donationis, si non probaverit eam causam donationis, et in eodem iudicio aliam novam causam voluerit probare non auditur actor et absoluitur reus ab eo iudicio, actori qui reservatur ius suum ut de novo causam prosequatur instituto alio libello et novo iudicio; haec est conclusio quam [illegible] probat textus in cap. significantibus 2 cap. [illegible] 3 de libelli oblatione [illegible] instituta de actionibus [illegible] bartolus in leg. 1 ff. [illegible] leg. [illegible] falsi [illegible] xerit, [illegible] probant et exornant [illegible] ordinarie communiter [illegible], andreas [illegible] de libelli oblatione, villadiego in sua practica [illegible] de forma libellandi in exordio [illegible], doctor balboa in cap. [illegible] 3 de libelli oblatione in [illegible] parte [illegible] § 11 de libello, [illegible] in leg. finali [illegible] lib. [illegible] recopilationis [illegible] ordinamenti, doctor [illegible] in leg. [illegible] [illegible] cardinalis [illegible] in cap. significantibus 2 de libelli oblatione [illegible] in cap. [illegible] 3 de libelli oblatione [illegible] [illegible] de libelli oblatione, [illegible] [illegible] textum [illegible]

Marginal note: in cap. ultimo de causa possessionis et proprietatis.

n. 2

Sed contra nostram conclusionem [illegible] [illegible] quod in libello [illegible] ex certa causa, quamvis causam non probet poterit in eodem iudicio aliam causam probare [illegible] ad instantiam, quia [illegible] exprimi [illegible] in libello [illegible] falsa scilicet ex venditione [illegible] causa possessionis [illegible] scilicet ex causa donationis [illegible] non evanescit iudicium [illegible] [illegible] probare habet cognita veritate, [illegible] argumento ex leg. [illegible] § falsa [illegible] ff. de [illegible]

Marginal note: [illegible] ad textum in cap. in causa ultimo de causa possessionis et proprietatis.

et demonstrat, ubi falsa demonstratio legati non vitiat, veluti
qui legaverit quinquaginta Seio ex illis centum quos legavit Titio
quamvis centum non fuisset legata Titio, attamen quinquaginta
[illegible] debentur Seio quia falsa demonstratio non debet
vitiare legatum, ergo etiam in nostro texto et conclusione qui petit
rem ex falsa causa, scilicet ex conditione quamvis non sit vera
[illegible] non corrumpit iudicium si generali causa [illegible]
ut ratio [illegible] [illegible] in cap. [illegible]
[illegible] n. 11

Secunda dubitandi ratio sic conficitur [illegible]
sententiam conclusionem, nam [illegible] ex nostro texto [illegible] cap. [illegible]
3 [illegible] revocando sententia et re iudicata in 6. quod sufficit in li-
bello petere rem ex generali causa, veluti peto rem quia [illegible]
[illegible] quamvis non exprimatur causa specialis [illegible]
quia eam debeo obtinere ex donatione vel emptione, in specie
casu non corruit libellus nec iudicium ut in texto relato
[illegible] ergo similiter non debet [illegible] stingui iudi-
cium et reus absolvi quamvis actor non probet causam in libello
[illegible] constaverit de veritate [illegible]
declaratam, si generali [illegible] [illegible]
et hoc [illegible] similiter prosequi in petitione hereditatis quia sufficit
[illegible] libellus in [illegible] ad petitionem hereditatis sine [illegible]
[illegible] bonorum hereditatis [illegible] iudicium quamvis [illegible]
[illegible] in libello, ratio est quia in iudicio [illegible]
[illegible] et probationibus actoris recte poterunt partes [illegible]
[illegible] declarari et sententia probare [illegible]
ergo sic similiter in nostra conclusione quamvis non [illegible]
probata sit causa [illegible] si in iudicio generali [illegible]
[illegible] causam actor non debet stingui iudicium [illegible]
constat de veritate causae [illegible], actoris et iudex [illegible]
sententiam proferre.

Tertia ratio dubitandi adversus eandem [illegible]
[illegible] supponitur quia si actor in petitione
vel libello petierit rem ex certa causa et non probaverit
[illegible] et condemnatus fuerit [illegible] et appellaverit
ad iudicem superiorem, poterit in iudicio appellationis [illegible]
[illegible] causa [illegible] quam [illegible] adiicit [illegible]
[illegible] quia quotiescunque [illegible] causa in libello proposita
et exprimitur intelligendum [illegible] causis expressis [illegible]

[illegible] n. 11 [illegible]

solutio in [illegible] n. 11 [illegible] 10.

+ leg. [illegible] hereditatis [illegible] Barbosa de libelli [illegible] 2 parte n. 16

(213 213

lectibus possit uti actor ex reg. [illegible] expressa in l. [illegible] sicut quidem [illegible] ff. de appellationib. ergo si in [illegible] appellationem causa non expressa deduci possunt, similiter in prima instantia, non proposita una causa deducta in libello poterit actor ad alias causas procedere relinquere ne eo quod iudicium instituatur, ut late disputat cardinalis zabarella in c. [illegible] significantibus de libelli oblatione [illegible] questione.

ad [illegible] novo libello [illegible] exceptione [illegible]

His [illegible] rationibus [illegible] non refragantibus verissima est nostri textus conclusio ad quam pervenit defendendum, at quia [illegible], quod libellus est petitio actoris in iudicio proposita, et per responsionem rei [illegible] dicitur litis contestatio [illegible] de litis contestatione in libello actor actionem personalem vel realem potest intentare+, actio personalis dicitur illa que provenit ex obligatione ratione contractus venditionis vel donationis et ista actio personalis tantummodo dirigitur contra personam obligatam vel contra suos heredes qui representant personam [illegible] non contra alios; actio vero realis est illa que competit contra bona que petuntur ut propria et sequitur [illegible] que dicitur reivindicatio [illegible] quemcumque possessorem, l. in rem actio ff. de reivindicatione, [illegible] institutam de actionibus [illegible] in eisdem quasi curia filipica § [illegible] de libello n. 6.-

+ legationem [illegible] de [illegible] petitionib. et actionib.

et [illegible]

 # [illegible] dicitur que [illegible] reivindicatio

n. 6.

in actione personali necesse est in libello exprimere causam remotam [illegible] exemplo si [illegible] ex vendam, peto [illegible] quam [illegible] extradi [illegible] in qua obligatus fuisti, non sufficit [illegible] in actione personali petere generaliter [illegible] ut notatur [illegible] # [illegible] in [illegible] parte n. 18. ratio enim quia in iudiciis [illegible] ut constet [illegible] que [illegible] actor agat [illegible] petitio in iudicio debet esse certa clara et concludens ut sic sententia in certa proferri possit, l. [illegible] ‡ et alia ratione confirma [illegible] quia [illegible] actione, actio vero obligatione [illegible]

 # [illegible] obligatione

‡ alias sententia [illegible]

personali, in tantum possit esse in specie, tum causa [illegible] ... et ideo nec causa in eius [illegible] est, ad hoc [illegible]

et ... convenientior, vel ... causa ... [illegible]

... doctrina ... [illegible] ...

... [illegible] ...

... obligatoris ... actor ... [illegible]

... respondetur, nam ... [illegible]

de libello citatorio ... [illegible]

... sufficit in ... libellus ... generalis ... [illegible]

... et constat quod ... de libello ... [illegible]

... [illegible] ...

... [illegible] ... respondet ... [illegible]

generalis ... consequitur doctor ... [illegible]

... de libelli oblatione n. 82. #

n. 1 ... in actione vero reali aliter ... formandus est ...

quam in actione personali, ita concipitur libellus petitorius ...

quia dominium illius fuit, ... sufficit causa generalem ...

... exo quod ad ... dominium, ... [illegible]

exprimere causam remotam, ... procedit dominium ...

... [illegible] ...

... indicat ... [illegible]

... de libello n. 1 quod utile erit actori ... [illegible]

... in actione reali, ... exprimere causam remotam propterea quam ...

est dominium illius ... quia ... [illegible]

... quod omnis causas includit actor in petitione generali ...

... [illegible] ... in alio iudicio ... [illegible]

... # ... nam ... oblatio ... quia ... [illegible]

... denegaretur iustitia actori, ... [illegible]

... si haberet et inveniret ... [illegible]

... instrumento ... causa, quod non exhibuit ... [illegible]

in petitione reali, si condemnatus ... [illegible]

... adiustamentum ... [illegible]

... non debet excludi ... in alio iudicio ... iustificet causam ...

... instrumenti, alias denegaretur iustitia ... [illegible]

... praxis ... tribunalium ... quia ... [illegible]

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ...

... mandatis libellus ... in actione personali ... causa ... in actione personali ... nam ... rem ... et ... libello ... [illegible] ... n. 82 ... [illegible]

... sufficit ... [illegible]

... quia ... iudicatus ... doctrina ... in ... actio ... iudicatis ... [illegible]

[illegible] novissime [illegible] in libello [illegible], doctor [illegible] [illegible]

[illegible] parte [illegible] tamen [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] tempore [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

dicitur quod iudicium [illegible] [illegible]

[illegible] actori [illegible] causam, [illegible] iudicium [illegible]

inventione [illegible] [illegible] ut libellus [illegible] quia [illegible]

locus [illegible] libellus contestata fuit [illegible]

[illegible] a [illegible] et [illegible]

ut [illegible] textu, [illegible] ex

[illegible] quia [illegible] textus loquitur [illegible]

[illegible] loquimur [illegible] iuxta doctrinam [illegible] n. 17

[illegible] circa [illegible] dicte legis [illegible]

lib. 3 nove Recopilationis et quod [illegible]

una parte § 18 [illegible]

n. 11 — verba [illegible] praxi que hodie observatur, restat nunc

ut [illegible] ad [illegible] contra nostrum textum

excogitatas, non obstat prima, [illegible]

[illegible]

[illegible] requisita [illegible] falsa designatio [illegible]

[illegible] legatum relictum a testatore cum falsa demonstratione cause,

[illegible] ratio est, quia in legato consideratur [illegible]

et liberalitas testatoris et ita non attenditur ad designationem fal-

se cause, ut subtiliter animadvertit [illegible] in con-

[illegible] ad [illegible] n. 99, aliter ego dico quando in iudicio

[illegible] quam

petita [illegible] ex falsa causa et demonstratione [illegible] iuxta

[illegible] per [illegible] iuxta

doctrinam nostri textus quid [illegible]

[illegible] libelli relatione [illegible]

n. 12 — , neque obstat secunda [illegible] quia

[illegible] nostri textus, loquitur de libello in ac-

tione reali in qua non est necessaria expressio cause, ut diximus

[illegible] quia [illegible] non requirit expressionem cause, quia

[illegible] [illegible]

ab eoque sive ad eum pertinet dominium, ideo cum nihil habeat [illegible]

[illegible] constitutione [illegible]

[illegible] veluti vero hereditate [illegible]

[illegible] causa dominii [illegible]

[illegible] hereditate [illegible]

[illegible]

[illegible] hereditatis [illegible] liquidatione [illegible]

[illegible] et ad hoc ut [illegible]

[illegible] restituere res liquidatas in libello cum fructibus [illegible]

[illegible] quod in libello [illegible]

liquidantur, ut [illegible] sententia definitiva [illegible]

[illegible] summarie [illegible] iuxta doctrinam [illegible]

[illegible]

[illegible] in cap. [illegible]

[illegible] cum distinctione [illegible]

[illegible] in cap. significantibus [illegible]

[illegible] ratio [illegible] appellationi [illegible]

[illegible] causa quod [illegible] appellatione [illegible]

[illegible] causa [illegible] appellationis [illegible]

[illegible] causa [illegible] et esset [illegible]

[illegible] hoc considerabit [illegible]

[illegible] in cap. [illegible]

[illegible] libellus [illegible] ad iudicem superiorem [illegible]

[illegible] appellatione [illegible]

[illegible] causa [illegible]

Margin notes: [illegible]

exquirens [illegible] [illegible] [illegible]
[illegible] et [illegible] in libello [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible], et [illegible]
non [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] in eodem iudicio [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible], sed [illegible]
[illegible] [illegible] est [illegible] [illegible] allegationibus et [illegible]
[illegible] [illegible], [illegible] [illegible] quierat iudex
[illegible] [illegible] sententiam contra [illegible]
[illegible] [illegible] [illegible] ad [illegible]
[illegible] absoluendo reos [illegible] ad [illegible]
iudicii, et condemnavit [illegible] in expensis, [illegible]
[illegible] [illegible], ratio in eo consistit cur hoc [illegible]
quia cum ille qui petit per unam causam [illegible] [illegible]
[illegible], absoluitur reus ab illius [illegible], ex eo quod iudex
[illegible], non poterat ferre sententiam conformem
in [illegible], [illegible] ex [illegible] causa [illegible]
libello, in libello erat petitor [illegible] libelli non [illegible]
[illegible] actor [illegible] ergo iuxta libelli [illegible] quia si actor veniret ad
sententiam [illegible] [illegible] sicut [illegible] exceptione certe
iudicium [illegible] [illegible] sicut [illegible] in iudicio, ut haberet rem petitam
causae, tunc reus [illegible] in iudicio, [illegible] in iudicio ve
ergo si hoc non fecit actor sed [illegible] [illegible]
[illegible] petendo rem ex una causa et probando [illegible], reus
[illegible] absolui ab eo iudicio et [illegible] in expensis actor, [illegible]
[illegible] reus [illegible] propter defectum probationis causae in libello
[illegible],

n. 9 — [illegible] ratio [illegible] [illegible] [illegible] potest ex lege non [illegible]
23 ff de iudiciis ubi [illegible] [illegible] affirmat quod [illegible]
et nova petitio in alio iudicio proponenda est quando actor [illegible]
iudicium [illegible] mutavit causam petitionis [illegible] [illegible] [illegible] petitio
[illegible] interpretatione [illegible] [illegible] [illegible] [illegible] [illegible]; sed [illegible]
[illegible], [illegible] [illegible] [illegible] propter mutationem
[illegible] [illegible] [illegible], [illegible] [illegible], ut actor [illegible]
[illegible] [illegible] habeat exceptionem rei iudicatae
[illegible] in alio iudicio [illegible] non possit [illegible] contra reum absolutum

[marginal notes:]

reservato suo iure [illegible] in alio iudicio de novo sequatur suam causam.

ut requiritur in iure et in praxi receptum est [illegible] ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] inexor[illegible] de la forma de [illegible] folio 209 [illegible] consequentia [illegible] [illegible] [illegible] [illegible]

[illegible] ut [illegible]

[illegible] iussu, [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] iudicari etiam solet [illegible]

[illegible] in instantia iudicii, non condemnatus [illegible]

reo absoluto, non [illegible] ratione [illegible]

[illegible] arbitrio eius relinquitur [illegible]

[illegible]; et [illegible] cognitione [illegible]

iudex debeat facere condemnationem in expensis, aut actor [illegible]

[illegible] habuerit iustam causam litigandi [illegible]

[illegible], aut non habuerit iustam causam litigandi [illegible]

[illegible] condemnatio expensarum

Hodie vero secundum [illegible]

in omnibus tribunalibus non [illegible]

si actor [illegible] petit rem in iudicio et [illegible]

[illegible] iudex condemnare [illegible] sententiam [illegible] iuxta [illegible]

[illegible] in lege 10 tit. 11 lib. 4 recopilationis [illegible] quod lites debent

[illegible] determinari attenta veritate, quia mutatio causae [illegible]

non tollit veritatem [illegible]

[illegible]

[illegible]

in 8. 18 [illegible] sententia n. 61 [illegible] in praxi, quod

petiérit [illegible] rem [illegible] in eodem iudicio [illegible]

[illegible] hoc [illegible] iudicium [illegible]

sententiam ut [illegible]

[illegible]

[illegible] in iudicio petierit et in eodem iudicio cognita veritate

[illegible], velut si [illegible]

petere debebit [illegible] petierit, [illegible] iudices [illegible]

[illegible], et [illegible] quod hodie in praxi observatur quod [illegible]

[illegible] in eodem iudicio [illegible]

mutari [illegible], et iudex [illegible]

[illegible] semper attendendum est [illegible]

[illegible] litigantium

Para despachos de oficio dos mrs

SELLO QVARTO, AÑO DE MIL Y SEISCIENTOS Y SESENTA Y NVEVE.

216 217

[illegible] resenvo[illegible]
[illegible] nistas de Castan, [illegible] [illegible]

PRAGMATICA, EN QVE SV MAGESTAD MANDA

QVE LOS REALES DE A OCHO DE la fabrica, y cuño que al presente corren, valgan diez reales de plata, con el nombre de escudos: y los que nuevamente se fabricaren con nuevo cuño, valgan ocho reales de plata.

Y LOS DOBLONES DE A DOS, QVE AL PRESENTE POR Pragmatica destos Reynos tienen de valor treinta reales de plata, le tengan de treinta y ocho reales de plata.

Y QVE TODAS ESTAS MONEDAS CORRAN CON EL PREmio, y reducion de á cincuenta por ciento.

CON LICENCIA.
En Sevilla, por Juan Francisco de Blas, Impressor mayor, Año de 1686.

*

DON Carlos, por la gracia de Dios, Rey de Caſ-
tilla, de Leon, de Aragon, de las dos Sicilias, de
Jeruſalen, de Navarra, de Granada, de Toledo,
de Valencia, de Galicia, de Mallorca, de Sevi-
lla, de Cerdeña, de Cordova, de Corcega, de
Murcia, de Jaen, Señor de Uizcaya, y Molina,
&c. A los Infantes, Prelados, Duques, Marque
ſes, Condes, Ricos hombres, Priores de las Ordenes, Comenda-
dores, Subcomẽdadores, Alcaydes de los Caſtillos, y Caſas fuer
tes, y llanas; y à los del nueſtro Conſejo, Preſidẽtes, y Oydores
de las nueſtras Audiencias, Alcaldes, y Alguaziles de la nueſtra
Caſa, y Corte, y Chancillerias, y â todos los Corregidores, aſ-
ſiſtente, Governadores, Alcaldes Mayores, y Ordinarios, Algua
ziles, Merinos, Preboſtes, Concejos, Vniverſidades, Veintiqua-
tros, Regidores, Cavalleros, Jurados, Eſcuderos, Oficiales, y Hõ-
bres buenos; y otros qualeſquier nueſtros ſubditos, y naturales
de qualquier eſtado, dignidad, ô preeminencia que ſea, ô ſer
pueda, de todas la Provincias, Ciudades, Villas, y Lugares deſtos
nueſtros Reynos, y Señorios, aſſi á los q̃ aora ſon, como á los q̃
ſerán de aqui adelante: Sabed, que aviendo yo reconocido los
graves daños que han ſeguido á eſtos mis Reynos por la falta
de moneda, he procurado aplicar algunos medios para ſu ma-
yor extenſion; los quales han fructificado poco: y en conſecuẽ
cia del amor que tengo â mis vaſſallos no he deſiſtido de procu
rar buſcar nuevas diſpoſiciones para ſu alivio, particularmen-
te en el remedio de eſta falta. Aviendole conſiderado
muy maduramente, que los ſeñores Reyes mis anteſſores
procuraron ſiempre que la moneda de oro, y plata deſtos Rey-
nos eſtuvieſſe â proporcion de los demâs de Europa, y aſsi fue-
ron dando mayor valor, y eſtimacion á las monedas de plata, y
oro, arreglandolas al valor de las que corren en los Reynos eſ-
traños, à cuyo fin hizieron varias peticiones las Cortes deſtos
Reynos, pretendiendo evitar por eſte medio la extraccion de
la plata, que tan perjudicial es à la cauſa publica, que oy experi
menta en eſta parte grauiſſimos daños, eſtrechando el comer-
cio de calidad, que mis ſubditos, y naturales no ſe hallan cõ la
moneda ſuficiente para ſus comercios, y tratos: Con el deſeo
de ocurrir à tan graue daño, y de dar al Reyno mas extenſion
de moneda de plata, ſin atender en eſto à coſa alguna que pue
da ſer en conveniencia, ó aumento de mi Real Hazienda (ſin
embargo de eſtar tan exauſta) ſino ſolo al de mis vaſſallos, con
el deſeo de que puedã alentarſe al trafico, comercio, y negocia-
ciones de ſu vtilidad. Conſiderando que el valor de la plata en
eſtos Reynos, ſiẽdo mas pura, y de mejor ley, q̃ la de los demàs
ſe halla inferior en la eſtimacion, q̃ por las leyes deſtos Reynos

ſe

se la dà en ellos, â la què tiene en todos los de à fuera,y á la que siendo de menos ley se labra,y corre en mis Dominios fuera de Castilla,y en los estraños; que se tiene entendido es gran parte para la facilidad de extraerse, y que los subditos,y naturales destos mis Reynos se hallen sin este caudal, de que tanto necessitan. Y procurando ocurrir á este daño, y dar à mis vassallos el aliuio que deseo; auiendose visto todo en el Consejo, y cõ Nos consultado, por la presente, que queremos tenga fuerça de Ley, y Pragmatica sancion, como si fuera hecha, y publicada en Cortes: Queremos, y mandamos, que el marco de plata de ley, de once dineros, y quatro granos, que hasta aora en pasta, ô baxilla tenia el valor de sesenta y cinco reales; y de que se han labrado sesenta y siete reales; quedando dos de ellos para el señoreage, y braceage en las Casas de Moneda, y sesenta y cinco para el dueño de la pasta, y materia de que se frabricava; para en lo de adelante valga en pasta, y baxilla ochenta y vn reales y quartillo, que es la quarta parte mas que se dà de crecimiento al valor de el marco de plata; y que labrada en moneda se estienda, y saquẽ del ochenta y quatro pieças, ô reales de plata, de valor cada vna de vn real de plata de treinta y quatro marauedis, los dos para el señoreage, y braceage, en la misma conformidad que hasta aqui, y los ochenta y dos para el dueño de la labor; dãdo al marco de que se han de fabricar las ochenta y quatro piezas la misma ley, y peso que tenia el marco que conforme à las leyes de estos mis Reynos se labraua hasta aora, de que se sacauan las sesenta y siete piezas, sin que esta labor tenga diferencia alguna en ley à la que hasta aora ha avido conforme á las leyes destos Reynos, solo dandole mayor estimacion en la extension, y numero de piezas. Y mando, que de aqui adelante en esta conformidad se labren reales de à ocho, de á quatro, de á dos, y reales sencillos correspondientes à los ochenta y quatro reales, en q̃ se ha de destribuir el marco; y que cada real de â ocho de los que en esta forma se labraren, valga, y tenga ocho reales de plata de valor intrinseco, en la misma especie, y en la misma conformidad los de â quatro, de a dos, y sencillos. ¶ Y prohibo, que desde la publicacion desta Pragmatica en adelante, de ningun modo se pueda labrar, ni labre moneda de plata en mis Casas de Moneda de otro peso, ni ley, que la que corresponde al marco de q̃ se han de componer las ochenta y quatro piezas que se han expressado; las quales se labrarán con los nueuos cuños que yo mandare, y no en otra manera. ¶ Y aunque pudiera ser conveniente que la moneda de plata que oy corre en estos Reynos labrada conforme à las leyes dellos, se reduxesse à esta nueua labor, para que no huviesse diferencia de moneda en ellos: Atẽdiendo á que el comercio no se estreche por el embarazo de reducir las monedas q̃ estàn labradas a la nueva forma; y a q̃ los señores Reyes mis antecessores en los tiẽpos q̃ dieron mayor

va-

valor al marco de plata,ó oro passaron por el inconveniente de permitir variedad de monedas, por no perjudicar a las antecedentemente labradas,segun las leyes destos Reynos: Es mi voluntad,q̃ la moneda de plata que hasta aora se ha labrado con nombre de real de a ocho,y segun el aumento que se dâ al marco de plata por esta nueua ley queda con el valor intrinseco de diez reales de plata,los valga, y corra en estos mis Reynos con esta estimacion de diez reales de plata,con el nombre de escudo de plata y la que hasta aora se ha labrado con nõbre de real de a quatro,valga,y corra por cinco reales de plata, con nombre de medio escudo,y a esta proporcion los de a dos, y sencillos,quedando el vtil,y conveniencia del mayor valor,assi de la moneda q̃ se halla labrada,como la q̃ en adelante se labrare, en vtilidad de los vassallos que la tuvieren,y no de mi Real Hazienda. ¶ Y porque este aumento que se dâ al marco de plata no es extrinseco,sino es regulado al q̃ tiene en si,y le dán todas las Naciones,y en estos Reynos ha corrido,y corre la plata con el premio,y reducion de cincuenta por ciento en bellon: Quiero, y mando,que a este mismo premio,y reducion corra en adelante, assi la plata que se halla labrada,como la que de nueuo se labrare; de modo,que el escudo de plata que hasta aora corria con el nombre de real de a ocho, y queda con el valor de diez reales de plata, valga quince reales de vellon;y el real de a quatro, q̃ oy queda por medio escudo con valor de cinco reales de plata, valga siete y medio;y â este respecto los reales de a dos,y sencillos desta moneda: Y que el real de a ocho de la nueua labor q̃ se hiziere, que ha de tener de valor ocho reales de plata, valga doze reales de vellon;y a este respecto los reales de a quatro,de a dos,y sencillos desta moneda: Y que en esta conformidad, y con este premio se puedan pagar con estas monedas de plata todas las deudas,y obligaciones contraidas a pagar en vellon, y las que adelante se hiziere,sin que el premio de la plata se pueda acrecentar,ni baxar,porque queremos corra en esta conformidad. ¶ Y porque auiendose dado extension a la plata,es justo se dé tambien al oro: Queremos,y mandamos,que el marco de oro se mantenga,y labre con el mismo peso,y ley que hasta aora se ha labrado en estos Reynos,sin alterar en manera alguna el marco,ni piezas q̃ del se hã labrado;pero queremos,y mãdamos,q̃ el escudo de oro q̃ hasta aora por Pragmatica de estos Reynos tenia de valor quinze reales de plata,tenga el valor de diez y nueue;y el doblõ de â dos escudos,q̃ por la misma Pragmatica tenia el valor de treinta rs.de plata,valga treinta y ocho y â este respecto los doblones de a quatro,y de a ocho:los quales tengan al respecto deste valor la misma reducion,y premio con el vellon,y hasta esta cantidad se puedan satisfacer,y pagar las obligaciones de vellon en oro, con la reduciõ de cincuenta por ciẽto. ¶ Y porq̃ mis vassallos tẽgan mayor conveniencia,

y vti-

y vtilidad en la labor dé esta nueva moneda, y hecha se execute con mayor conveniencia suya, aunque sea en perjuicio de mi Real aver, y derechos que por las leyes destos Reinos me pertenecen por el señorage de la labor de la moneda de plata: Quiero, y mando, que las personas que llevaren à labrar plata de baxilla â mis Casas de Moneda, sean libres de la paga del derecho de el señorage, percibiendo esta mayor vtilidad los dueños de la labor, y quedando sin ella mi Real Hazienda, segun, y como tambien està dispuesto por otras Leyes, y Pragmaticas de estos Reynos, que en lo que à esto mira, quiero queden en su fuerça, y vigor. Y que de este mismo beneficio gozen las personas que llevaren à labrar la moneda de plata que oy corre para reducirla â la nueua labor que por esta Pagmatica se manda. Y aunque conforme á este nueuo aumento de la quarta parte de mayor valor q̃ se dá al marco de plata se cumpliera, y pagara enteramente à los dueños de la plata entregandoles en moneda â moneda ochenta y vn reales, y quartillo, pudiendo quedar para mi Real Hazienda los tres quartillos q̃ restan à cũplimiento de los ochenta y dos reales de plata; todavia para q̃ mis subditos, y naturales sean mas vtilizados en la labor desta moneda, y el comercio sea aumentado en vtilidad suya, y destos mis Reynos: Quiero, que todos los que lleuaren â labrar á las Casas de Moneda pasta, baxilla, ô moneda de la q̃ oy corre, para reducirla à esta nueva labor, gozen del beneficio de los tres quartillos de plata, y se les entreguen en las casas de Moneda ochẽta y dos reales por cada marco; y à los que lleuaren baxilla, ó moneda, de quienes no se ha de cobrar el derecho del señoreage, se les entregue ochenta y tres reales en moneda amonedada. ¶ Y porque puede ofrecerse duda sobre la paga, y satisfacion de los contratos, y obligaciones hechas â pagar en plata, ô porque la obligacion proceda de contrato, en que se capitulô esta satisfacion, sin aver recibido plata, ó porque se aya recibido plata, y se aya prevenido que la satisfacion aya de ser en moneda de plata: Deseando euitar pleytos, y q̃ nuestros subditos, y vassallos no sean molestados con ellos: Ordenamos, y mandamos, que las obligaciones, y contratos que se huvieren hecho con obligaciõ de pagar cantidad de plata, se puedan satisfacer con la moneda que oy està labrada, y con la q̃ de nueuo se ha de labrar, conforme al valor que por esta Pragmatica se dâ à la dicha moneda de plata, pagandose vn escudo de plata, à que quedã reducidos los reales de â ocho que oy corren por diez reales de plata; y los reales de á ocho que nueuamente se labraren por ocho reales de plata; y assi las demas monedas de reales de à quatro, de á dos, y sencillos de vna, y otra labor, conforme al valor que por esta Pragmatica les và dado, sin que el acreedor pueda pedir otra satisfacion; excepto en los contratos en que auiendose recibido moneda de plata el deudor se aya obligado especial-
men-

mente a pagar la cantidad de plata que recibió, en las mismas monedas que entregó, y del mismo valor, peso, y ley: porque en estos casos el deudor ha de estar obligado a pagar en las mismas especies que recibiò, y especialmente se capitularon al tiempo del contrato. ¶ Y porque al tiempo que esta Pragmatica se promulgare se podrā hallar algunas cantidades plata, o por razon de deposito, ô por otras causas, las quales no pertenezcan a las personas en cuyo poder se hallaren: Declaramos, y mandamos, que el aumento, y mayor valor que estas cantidades tuvieren, aya de ser, y sea para las personas a quien pertenecia el dinero al tiempo de la promulgacion desta Pragmatica, y no para aquellos en cuyo poder se hallare. ¶ Y si sucediere algun caso a que por esta Pragmatica no se aya dado prouidencia, segun lo que por ella và mandado: Queremos, y mandamos, que los casos que sobreuinieren, y a que no està dada prouidencia; se sententien, y determinen conforme a derecho, y leyes destos Reynos. ¶ Todo lo qual es mi voluntad se cumpla, guarde, y execute inviolablemente, sin q̃ ninguna persona, de qualquier estado, y calidad que sea ponga en ello embarazo, ni impedimento alguno, por convenir assi a mi servicio, y bien destos Reynos; no obstante qualesquier leyes, ô Pragmaticas que en contrario estén promulgadas en Cortes, ò fuera dellas: las quales (en quanto a lo en esta contenido) derogamos, y abrogamos, dexandolas en su fuerça, y vigor para lo demàs. Y todas las Justicias destos nuestros Reynos, y Señorios, cada vno en su jurisdicion, hagan cumplir, y executar lo aqui contenido como Ley, y Pragmatica sancion. Dada en Madrid a catorze dias del mes de Octubre de mil y seiscientos, y ochenta y seis años.

YO EL REY.

Yo Antonio de Zupide y Aponte, Secretario del Rey nuestro señor, la hize escrivir por su mandado.

El Conde de Oropesa. Lic. D. Gil de Castejon.

Lic. D. Alonso Marquez de Prado. Lic. D. Fernando Moscoso.

Lic. D. Joseph de Salamanca, y del Forcallo.

Registrada. D. Joseph Velez.

Teniente de Chanciller mayor. D. Joseph Velez.

EN la Ciudad de Seuilla, en veinte y vn dias del mes de Octubre de mil y seiscientos y ochenta y seis años, el señor Don Feliz Nieto de Silva, Conde de Guaro, del Cõsejo de Guerra de su Mageſtad, Maeſtre de Campo General de las Coſtas, y Exercitos del Andalucia, Aſsiſtente, y Maeſtre de Campo General en eſta Ciudad de Seuilla, y ſu Tierra, Administrador General de los Servicios de Millones en ella, y ſu Reynado, y Superintendente General de todas Rentas Reales. Dixo: que en el Correo ordinario deſte dia ha recibido vna Real Pragmatica de ſu Mageſtad, en que ſe ſirve mandar, que los reales de a ocho de la fabrica, y cuño que al preſente corren, valgan diez reales de plata, con el nombre de eſcudos, y los que nueuamente ſe fabricaren con nueuo cuño, valgan ocho reales de plata, y los doblones de à dos que al preſente por Pragmatica deſtos Reynos, tienen de valor treinta reales de plata, le tengan de treinta y ocho reales de plata; y que todas eſtas monedas corran cõ el premio, y reducion de â cincuenta por ciento, ſegun mas largo ſe contiene en la dicha Pragmatica, ſu data en Madrid à catorze deſte preſente mes de Octubre: la qual ſu Excelencia mandô ſe publique en eſta Ciudad, y partes publicas della, con clarines, y atauales, aſſiſtiendo el ſeñor Lic. D. Pablo de Hineſtroſa Guerrero, Teniente mayor deſta Ciudad. Aſsi lo probeyó.

El Conde de Guaro.

Ante mi
Andres Perez de Manſilla.

PREGONES.

EN la muy Noble, y muy leal Ciudad de Seuilla, en veinte y vn dias del mes de Octubre de mil y ſeiſcientos y ochenta y ſeis años, en preſencia del ſeñor Lic. D. Pablo de Hineſtroſa Guerrero, Teniente mayor de Aſsiſtente deſta Ciudad, con clarines, y atauales, por voz de Manuel Sebaſtian de Aguilar, pregonero publico deſta Ciudad, ſe pregonô lo contenido en la Real Pragmatica de ſu Mageſtad, ſu data en Madrid â catorze de eſte preſente mes de Octubre, ante las puertas del Cabildo deſta Ciudad. En la eſquina de las Gradas de la S. Igleſia, frente de la calle de Genoua. En calle de Francos, junto al Arquillo de los Chapineros. En la Plaza del Pan. En la Falfa. En la Plaza de la Feria. Y en el Altozano de Triana. A que ſe hallaron preſentes Melchor Rodriguez. Andrés Tinajero. D. Antonio de Figueroa. Iſidro Garcia. Manuel Franciſco, y Juan Antonio, Alguaziles de los Veinte deſta Ciudad, y otras muchas perſonas, lo qual paſsó ante mi, de que doy fee.

Diego del Aguila
Eſcriuano.

TRACTATUS DIFFERENCIARUM INTER UTRUMQUE FORUM

CAP. I DE REVOCATIONE [illegible]

[illegible] primum revocatur per se[cundum]

[illegible] secundum [illegible] revocat primum

[illegible] secundum [illegible]

[illegible] in futurum [illegible] revocatur per [illegible] secundum post [illegible] solemnitatibus [illegible] primum

[illegible] revocatur per [illegible] primum [illegible] per secundum revocatur

[M]ayoratus quando revocetur

13 Testamentum majoratum [illegible] et solemnitatem [illegible] revocatur per secundum

14 Testamentum secundum non [illegible] revocat primum

15 Princeps privilegio [illegible] ut non revocetur primum testamentum per secundum

16 Pactum [illegible] ut primum testamentum valeat contra secundum

17 Testamentum inter liberos revocatur per secundum

18 Mayoratus in primo testamento revocatur per secundum

19 Testamenta eodem die facta [illegible] heredibus [illegible] prestabunt

20 Pr[illegible] vel [illegible] per [illegible] judicatur

21 Testamentum secundum [illegible] revocat primum

22 Testamentum primum cum clausula derogatoria non revocatur per secundum

23 Testamentum secundum revocat primum cum clausula derogatoria [illegible] secundo [illegible] clausula fiat

Inde [illegible] ad l. [illegible]

27 Testamentum [illegible]

28 Testamentum [illegible] clausula [illegible] per secundum

29 Testamentum primum [illegible] per secundum

30 Testamentum [illegible] primum

31 Testamentum [illegible] per secundum

32 Testamentum secundum ut revocet primum [illegible] debet

33 Testamentum [illegible] revocari [illegible]

34 Testamentum revocatur per [illegible] in scriptura et solemnitatibus

35 Apostille debent [illegible] per [illegible]

36 Testamentum in scriptis vel nuncupativum [illegible] translatum [illegible] revocatur

37 Originale quod est protocolum non [illegible] transferatur

38 Testamenta eodem die et tempore facta [illegible] revocatur [illegible] revocata illo voluntas

39 Testamentum primum revocatur per voluntatem contrariam

40 Testamentum primum an revocetur per contrariam voluntatem non [illegible] secundum heredem

41 Voluntas perfecta non [illegible] imperfecta

42 Voluntas secunda in foro conscientiae revocat primum testamentum

43 Voluntas testatoris probata revocat primum testamentum

44 Voluntas testatoris [illegible] velle [illegible] a primo testamento [illegible] revocat etiam [illegible]

45 Voluntas testatoris [illegible] revocat primum testamentum

46 Testamentum primum in foro [illegible] revocatur per contrariam voluntatem probatam in foro conscientiae [illegible]

CAP I DE REBOCACIONE PRI MI TESTAMENTI PER SECUNDUM

[illegible]

... quomodocumque ...

[illegible]

... testamenti ... 15 ff de his quae ... causa mortis l. 1 § quod ... glos ... Salagar ... c. 16 n° 20. ... quidem hoc procedit ut ... testamentum primum in quo voluntas testatoris declaratur ... secundum testamentum ... testamentum ultimo loco ... est revocatur ... declaratio ... testatoris primum testamentum ... quod testamentum primum revocatur per secundum ... cum solemnitatibus ... testamento codicillo ... supra ... lib. 4° c. 18 n° 188. ... testamento ... voluntatis ... testatoris voluntatem ... clausula testamenti ... augendo vel limitando vel ... ff de legatis 1° l. ... 12 § ... lib. 2. 45 ff de ... vel instrumento legato ... lib. 6 ... n° 5 ...

[illegible]

... mortem ff de testamentis ... testatoris testamentum ... ad ... 1° glos 14 ... arbitrio l. illa ... ff de heredibus instituendis ... l. 8 glos 1 n° 4 ... revocationis ...

Primum modum revocandi testamentum ... primum testamentum secundum ... l. cum in secundo 16 ff de iniusto rupto ... posteriore ... testamento ... ff de legatis 3° l. 21 ... glos 1a ... Barbosa ... 1283 ... lib. 2° c. 3 n° ... lib. 4° c. 92 ... primum testamentum ... secundum ... testamentum secundum ... testamento ...

[illegible]

[illegible]

[illegible] quibus modis testamentum [illegible] et hoc [illegible] [illegible] testamentum per quae [illegible] revocanda [illegible] communem [illegible] [illegible] gloss. 10 n. 5 [illegible] 4 obs. [illegible] 153 n. [illegible] Julius Clarus [illegible] testamentum [illegible] sed hoc secundum [illegible] procedunt [illegible] verius est

9 hodie [illegible] revocari primum testamentum propter contrariam voluntatem testatoris secundum quam revocatur primum testamentum ut proxime dicemus, [illegible] quod hodie testamentum [illegible] solemnitatibus [illegible] requisitis [illegible] revocato testamento primo [illegible] [illegible] gloss. 10 n. 6.

Secundo dico adeo verum esse testamentum primum revocari per secundum

7. quod licet aliquid [illegible] in secundo [illegible]

10 [illegible] declarando [illegible] [illegible] 153 [illegible]

8 [illegible] ratione [illegible] institutione [illegible] [illegible] testator [illegible] secundo [illegible] [illegible] velle [illegible] vel [illegible] revocando vel [illegible] testamentum sine [illegible] primi vel nova institutione heredis [illegible] de [illegible] lib. 2 [illegible] 15 n. 20 [illegible] 15 [illegible] 44 b n. 3.

Tercio dico quod secundum [illegible] testamentum secundum [illegible] primi testamenti [illegible] clausulam revocatoriam sine heredis institutione [illegible] revocatur primum testamentum at hodie [illegible] est quod [illegible] de contraria voluntate [illegible] secundum [illegible] clausula derogatoria primi vel sine institutione heredis [illegible] primum testamentum revocatur [illegible] secundum [illegible] [illegible] testamenti [illegible] 4 obs. 5 [illegible]

Quarto dico adeo verum esse testamentum primum revocari per secundum

10 contrariam voluntatem [illegible] secunda contraria voluntas [illegible] declarata nullum [illegible] primum testamentum

[illegible]

[illegible] in codicillis heredes
[illegible] l. 1a Cod.
[illegible] in [illegible]
[illegible] quod licet per volunta[illegible]
[illegible] revocaretur [illegible]
[illegible] in primo testamento hoc non
[illegible] debet intelligi sed quasi per fidei
commissum, substituatur itaut heres insti-
tutus in primo testamento per codicillos vide-
tur esse rogatus de hereditate restituenda
heredi nominato in codicillis adducitur pro
ea sententia l. ex ea in l. Scaevola 76. ff. de
[illegible] Balbum et Didaco Lupo de pactis verba
[illegible] quaestionem [illegible]
[illegible] plures doctores a[illegible]
ducendo resolvit Andreas Fachineus contro-
vers. lib. 4 c. 7° in fine. Quod ego verum puto
secundum jus commune, verum secundum
jus nostrum Regium et quod in praxi ser-
[illegible] quia [illegible] nostro jure [illegible]
[illegible] in codicillis [illegible]
in testamento ut nos late disputando [illegible]
[illegible] adduximus supra lib. 4 c. [illegible]

41 Secundum [illegible] commissa [illegible]
[illegible] heredem in codicillo [illegible]
[illegible] hereditatem [illegible]
[illegible] in primo testamento [illegible]
[illegible] locum [illegible]
secunda voluntas [illegible] in codi-
cillis [illegible] testamentorum [illegible]
[illegible] ad [illegible]
[illegible] voluntatem [illegible]
[illegible] codicillaris [illegible]
[illegible] voluntas
[illegible] modo [illegible] valere [illegible]
[illegible] valere [illegible]

11 Quando [illegible] secundum testamentum [illegible]
[illegible] quamvis sit [illegible]
[illegible] vel [illegible]

[illegible]
[illegible]
[illegible] testatorem [illegible]
voluntatem [illegible]
communem [illegible]
10 de testamentis [illegible]
[illegible] tom. 3 [illegible] concl. 1283 n°.
[illegible] 153 n°. 1.

Ex quo infertur [illegible] in l. 44 taur.
12 [illegible] 1 lib. 5 recopilat. [illegible]
[illegible]
voluntate [illegible]
[illegible] facultate revocandi [illegible]
in casibus in dictis legibus [illegible]
[illegible] a lege [illegible]
[illegible] revocandi [illegible]
[illegible] per contrarium [illegible]
facultatem non revocandi vel [illegible]
[illegible] non revocare [illegible]
debet [illegible] ita [illegible]
in d. [illegible] de testamentis 2a p. n. 6, 17 [illegible]
[illegible] resolvit [illegible]
[illegible] n°. 15 cum sequentibus.

Sexto dico adeo valere revocationem
[illegible] per secundum [illegible] pri-
mum testamentum [illegible]
[illegible] solemnitates [illegible]
[illegible] secundum [illegible] a lege [illegible]
[illegible] solemnitatibus [illegible]
[illegible] adeo ut [illegible]
[illegible]
[illegible]
[illegible] revocatorem [illegible]
[illegible] de [illegible]
[illegible] 53 [illegible]
[illegible]
[illegible] de testament. 2a p. [illegible]
resolvit [illegible] concl. 1282 n°. [illegible]

14 Septimo dico revocationem [illegible]
[illegible] primi [illegible] secundum [illegible]
[illegible] secundo testamento
[illegible] vocati
[illegible] non [illegible] heredes [illegible]
[illegible] quia [illegible] vel non [illegible] vel quia

decessit

[illegible]

... clusse 1283 nº 21 [illegible] quod ... 153 nº ...

Omnibus ... adeo ... [illegible]

[illegible]

Nono dico nec ... testamentum ... ad revocandum primum ... 16 ... [illegible]

[illegible]

... 15 ... l. ... 4 ... [illegible] ... clusse 1283 nº 23 quod ... [illegible]

[illegible]

... authent. ... de testamentis ... [illegible]

Ex quo deducitur quod ... 18 ... [illegible] ... secundum testamentum ... primum ... nº 12.

Videamus dico et dubitandum ... testamento ... 19 ... solemnitatibus ... testamentum ... [illegible] ... testamentum primum ... 20 ... [illegible] ... 97 ... 31 ... 14 ... verbo ... 16 ... glos. verb.

[illegible]

Verum hac opinione [illegible] est veriores et secundum quod [illegible] debeat [illegible] ut non possit [illegible] vel [illegible] in testamentis vel [illegible] praesumptionibus [illegible] ad [illegible] duo heredes in quo [illegible] testamento [illegible] et [illegible] hereditatis [illegible] ex [illegible] l. [illegible] codicillis 36 [illegible] ff. de testamento militis [illegible] primo [illegible] tabulis [illegible] revocatum quod [illegible] est expressum maxime circa [illegible] heredes [illegible] 19 ff. eodem [illegible] de testamento militis [illegible] ff. de bonorum possessione secundum tabulas [illegible] haec verba [illegible] duobus codicillis simul [illegible] heredes [illegible] et utrumque [illegible] utroque [illegible] bonorum possessio [illegible] tabulis [illegible] est [illegible] utrumque [illegible] l. [illegible] 32 [illegible] l. [illegible] 9 in princ. ff. de [illegible] quae [illegible] tabulas [illegible] et [illegible] l. [illegible] 14 [illegible] nos [illegible] igual [illegible]

[illegible] quod [illegible] testamento [illegible] heredes [illegible] in protocolo [illegible] testamentum prius [illegible] quod [illegible] in protocolo testamentum non [illegible] prima [illegible] communi et [illegible] et in heredes testamento [illegible] hereditatem [illegible] quorum [illegible]

Duodecimo dico quod secundum quod [illegible] primum testamentum est [illegible] absque conditione et secundum habet conditionem an revocet primum testamentum secundum conditionale quia in [illegible] dic [illegible] secundum testamentum quod si fiat conditionale [illegible] conditione de praesenti et de praeterito quae non [illegible] habet non revocat primum testamentum. Si vero sub conditione quae [illegible] habet aut sub conditione de futuro possibili [illegible] eveniat [illegible] nullo modo revocat primum testamentum [illegible] sub [illegible] de futuro [illegible] quo [illegible] et [illegible] testamentum [illegible] revocat secundum testamentum primum [illegible] expressus [illegible] in secundo [illegible] ff. de [illegible] in [illegible] ubi [illegible]

ne verbo

[illegible]

... praeferendum est secundum testamentum ... esse ... voluntatem ... primum testamentum ... [illegible]

... in primo testamento ... voluntatis ... in secundo testamento non esse ... [illegible]

[illegible]

... quod primum testamentum ... primum habeat clausulam revocatoriam et in secundo de ea non fiat mentio contra ... [illegible] ... de legatis ... [illegible]

... codicillis ... [illegible] ... tandem concludit verum esse ... quod cum codicilli non requirant aliquas solemnitates nec necessarium est ... valere ... codicillos ... [illegible]

... in voluntate derogatoria in codicillis declarata et non obstante derogatoria valere posteriores codicillos ... [illegible]

Verumque ... non obstante clausula derogatoria voluisse voluntatem in secundo codicillo ... primam voluntatem ... clausula derogatoria ... testatorem voluisse mutare primam voluntatem per modos legitimos ... probatur ... secundam voluntatem ... revocatoriae clausulae ... [illegible]

[illegible] Clausula quidem [illegible] secundo testamento apposita in primo testamento [illegible]

[illegible]

vel [illegible] voluntas [illegible] quod illius possit [illegible] aequari non possit, quod [illegible] in testamento hoc voluntatis [illegible] quibus voluntas [illegible] ambulatoria [illegible] plures testatores [illegible] testamentis [illegible] no. 58 vers. secundo [illegible] communem illius clausulae [illegible] sententiam lib. 3 [illegible] q. 99 no. 2. Antonius Gomez [illegible] no. 94 Taur. Molina de hispan. primog. lib. 4 c. 3 no. 3. Peregrinus [illegible] no. 5. Siquerca declarationibus lib. 2 c. 3 no. 2 plures [illegible] Pater Molina [illegible] p. 153 no. 21 [illegible] in hoc non esse necessarium derogationem illius clausulae in secundo testamento [illegible] sed sufficere clausulam generalem quando [illegible] apponere in testamento [illegible] omnem [illegible] voluntatem in testamento vel [illegible] aliquidem modo clausula revocatoria solet apponi per verba [illegible] derogatoria voluntatem [illegible] per hoc [illegible] uno

29 modo per verba generalia [illegible] testamentum [illegible] quod per hoc [illegible] vel quod simile [illegible] clausula est deroga[toria] [illegible] secundo testamento [illegible] revocatio per verba generalia [illegible] testator [illegible] ad revocationem illius voluntatis [illegible] volo valere hoc secundum testamentum non obstante quod in alio vel in tali testamento [illegible] clausulam quamvis derogatoriam secundae voluntatis illud [illegible] ad revocationem primae voluntatis et ad validitatem secundi testamenti. Alio modo clausula revocatoria [illegible] in primo testamento verbis [illegible] [illegible]

[illegible]

[illegible] primi testamenti [illegible] non [illegible] specialem facere [illegible] derogatoria [illegible] primum testamentum [illegible] et [illegible] [illegible] 25 n. 25 [illegible] in principio [illegible] n. 22 [illegible] omnes [illegible] non [illegible] testator et non negligens [illegible] et addat nullius clausulae derogatoriae [illegible] velle derogare primum [illegible] clausula derogatoria [illegible] quod [illegible] in secundo testamento vel vult testator derogare primum [illegible] clausula derogatoria non [illegible] in hoc secundo quia [illegible] verbo [illegible] vel [illegible] primum clausula derogatoria testamenti [illegible] secundo [illegible] derogari [illegible] primum et [illegible] voluntatis per secundum testamentum [illegible] omnes Doctores [illegible] Molina de [illegible] p. 153 no. 23 et [illegible] ubi [illegible] Rota [illegible] 137 [illegible] Augustinus Barbosa lib. 1 voto 11 no. 5 [illegible] non clausulae [illegible] plures [illegible] Bayo [illegible] lib. 1 c. 25 no. 32 Siquerca declarationibus lib. 1 c. 3 no. 4.

Alio quidem [illegible] clausula derogatoria in primo testamento

28 [illegible] in secundum testamentum [illegible] testamentum [illegible] testator [illegible] voluntatem [illegible] non [illegible] clausula derogatoria

99 ... l. 2 p. 153 nº ... Figueroa de la claus. lib. 1 c. 3 ... gutierrez de juram. conf. ... c. 1 nº 7

Eadem ratione clausula derogatoria in primo testamento derogat ob... secundum testamentum ... primum quoties ... inter extraneos et in secundo testamento ... heredes ... descendentes vel alij ... ab intestato ... clausula derogatoria ... primo testamento ... secundo revocat primum ... est magis ... praesumpta mente testatoris velle revocare primum ... non facta mentione clausulae revocatoriae, sed generaliter dicant hoc ... ultimam voluntatem ... revoco ut solet ... apponi in omnibus testamentis ... communem ... l. 2 p. 153 nº 19 ... Figueroa d. lib. 1 c. 3 nº 3 ... secundum testamentum ... primum testamentum ... heredem ... clausula apposita in primo testamento revocatur per secundum ... mediante illa nova causa.

Verum quod ... est primum testamentum ... 28 ... et ... apposita ... clausula revocatoria ... processit secundum ...

... fuerit ... clausulam expressam de ... secundo testamento ... derogatoria per secundum testamentum ... remaneret ... expressa ... derogatoria ... voluntas testatoris ... tradit Covarr. de testament. d. 2 p. ... nº 64 vers. ... sequitur ... communem ... Clarus d. § testamentum q. 99 nº 6.

De ... quando ... secundum testamentum revocare primum ... 29 ... in primo testamento ... clausulam ... todo que este testamento fuera revocado por otro segundo testamento o ultima voluntad ... que no ... de ello ... y quiero que al primero heredero de mis bienes ... mill ducados aunque ... revocare per secundum testamentum primum ... testamento ... Clarus ... Covarr. ... secundo ... Joannes gutierrez de juram. ... 2 p. ... c. 1 nº 5 ...

[illegible]

31

[illegible]

[illegible]

[illegible] ... clausulae derogatoriae ... testator ... primum testa[mentum] ... pro ... voluntate discedere ... secundum testamentum nulla facta ... prioris testamenti ... per hoc secundum testamen[tum] ... non revocari primum ... testamentum ... gloss. 30 ... 33 ... cum antecedentibus et sequentibus ... necessarium est in secundo testamento mentionem facere de primo ... dicendo testator se velle discedere a primo testamento qualicumque clausula revocatoria ... sicut ... clausula revocatoria ... ad revocationem testamenti primi ... verba generalia ... revocatoria ... voluntatem ... in primo testamento ... juramento firmata ut per secundum testamentum revocetur ... non solum ... clausulae revocatoriae generales sed specificas ... mentionem de juramento faciendo esse in secundo testamento ut valeat dicere quod et si primum testamentum contineat clausulam derogatoriam ... juramentum ... non obstante ... voluntate recedat et non ... secundam voluntatem in secundo

... cum ... Jullius Claro ... Jo. Covarrubias ... 183 ... Joannes ... Gutierrez de juram. ... Sanchez ... 184 ... 153 nº 27 et 28 ... gloss. 30 ... clausula ... lib. 1 c. 3 nº 5.

Caeterum in casibus in quibus ... primum testamentum annullatur per secundum testamentum ... impediunt facultatem revocandi ... vel quando in secundo testamento ... juramenti ... non obstante testator ... discedere ... secundum et dicendum est ... testatorem revocando primum testamentum juratum ... in contrarium ... vide ... nº 47 ... secundo ... Antonius Gom. ... nº 95 ... 30 nº 84 ... Jullius Clarus ... testamentum ... 94 nº 4 ... c. 1 nº 5 et ... fundamentalis ... contra ... 151 nº 5 ... 153 ... nº 27 ... affirmantes ... testamentum juratum primum revocari per secundum in quo ... de juramento mentio ... testator ... quia ... contra ... tenendum dico.

Secundo modo quod testamentum ... facta ... scriptura ... non solum ... vel deleta ... solemnitate

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[illegible]

... Antonius Gomez in d. l. 3a nº 90 ... de probationibus ... n. 30 ... [illegible] in testamento ... et in testamento scripto si ligatura sit rupta testamentum esse nullum, [illegible] Gomez de Leon centuria ... [illegible] part. 153 nº 11 vers. ... praeterea Figueroa de clausulis ... c. 3 nº 10 docentes hoc fore quando secundum voluntatem testatoris ruptura fit in totum vel pro parte, non si praeter eius voluntatem ignorante vel contradicente testatore ipso [illegible] quo propter ... in parte testamenti ... [illegible] per testatorem ruptura ... vel cancellatione ut puta in signo tabellionis vel in subscriptione ipsius testatoris ... praecise testamentum esse nullum. Si [illegible] in alia parte legato vel clausula vel [illegible] illud cancellatum ... revocatum ... [illegible] solemnitas ...

39 tabellionem fuerit salvata, et tunc valebit testamentum etiam in ea parte ... l. 1a ... in testamento ... [illegible] Antonius Gomez in d. l. 3a nº 91 ... et ... plura quae congessit ... de ... instrumentorum ... 33 nº ... et sequentibus.

36 Valet ... [illegible] ... cancellationem vel ... [illegible] testatorem ... contra ... voluntatem ... [illegible] ... primum testamentum ... testamentum in scriptis ... testamentum ... [illegible] ... testamentum primum ... [illegible]

... [illegible] originali quod ... [illegible]

37 ... [illegible] ... primo protocollo ... [illegible] ... in testamento ... [illegible] ... testamentum ... [illegible] ... voluntas ... [illegible] ... testamentum ... [illegible] ... testamento ... [illegible] ... voluntatis testatoris ... [illegible] ... testamentum revocandum ... [illegible] ... voluntate ... Antonii Gomez ... sententiam ... video ... [illegible]

Ex quo illud deducitur quod ... duo testamenta ... vel eodem tenore ... [illegible]

38 ... [illegible] ... cancellatis ... revocamus ... [illegible] ... voluntas sit revocata ... [illegible] ... in testamento ... [illegible] ... per rupturam vel cancellationem unius testamenti ... revocari ... [illegible] ... voluntatem ... voluntate testatoris voluisse ... voluntatem revocare ... testamenta facta ... voluntatis per rupturam unius ... [illegible] ... probationem ipsius voluntatis ... Antonius Gomez in d. l. 3a nº 91 ... [illegible] ... testamenti esse mutatam

voluntatem

[illegible]

[illegible] a [illegible] dixi [illegible] probat
[illegible] 1417 n° 38 [illegible] 59 [illegible]
[illegible] 1 part. [illegible]

Tertio et ultimo modo quo testamentum [illegible] et factum solemniter infirmatur quando post testamentum solemniter [illegible] constat de contraria voluntate [illegible] ex qua [illegible] testamentum [illegible] velle revocare et [illegible] quod [illegible] voluntas [illegible] non [illegible] voluntas [illegible] declarata est [illegible] quam habet [illegible] confirmatio [illegible] testatoris [illegible] [illegible] per contrariam voluntatem [illegible] quod [illegible] est [illegible] in testamento declaratam—

Quo [illegible] dubitant Doctores an [illegible] contraria voluntas [illegible] cum omnibus solemnitatibus [illegible] in [illegible] testamento interveniat [illegible] heredis [illegible] [illegible] testamento [illegible] Doctores communiter [illegible] secundam voluntatem de [illegible] requisitis quae prima voluntas [illegible] heredis institutione et de revocatione primi testamenti [illegible] voluntatem declaratam [illegible] testamentum [illegible] heres [illegible] revocatio [illegible] velle decedere ab intestato et quod [illegible] testamento [illegible] primo [illegible] [illegible] autem solo [illegible] testamenta [illegible] verba sunt [illegible] autem solo non [illegible] testamentum quod [illegible] testator [illegible] valere [illegible] post [illegible] primus testamentum [illegible] [illegible] per [illegible]

[illegible] habet
[illegible]
[illegible] in [illegible]
[illegible] exceptione—

Tertio facit [illegible] quod post [illegible] testamenti [illegible] [illegible] post [illegible] testamentum [illegible] omnia [illegible] integro [illegible] verba [illegible] ad [illegible] [illegible] secundae voluntatis [illegible] rationem habere [illegible] integram [illegible]

Quarto facit [illegible] modo [illegible] testamentum [illegible] [illegible] testamento [illegible] heres [illegible] [illegible] requisitum ut secunda voluntas [illegible] qualitatis [illegible] [illegible] primum testamentum [illegible]—

Quinto facit [illegible] testamentum [illegible] testamento [illegible] pura [illegible] testamentum [illegible] verba habent [illegible] in testamento voluntas [illegible] heredis [illegible] [illegible]—

Sexto aliis omissis facit [illegible] testamentis [illegible] contraria voluntate [illegible] revocationem [illegible] primum testamentum [illegible] voluntate et [illegible] [illegible] ratione [illegible] testamentum [illegible] et [illegible] secunda voluntas [illegible] declarata cum solemnitatibus [illegible] [illegible] que [illegible]

[illegible]

d. l. 10 nº 10 [illegible]
[illegible] sententia con[illegible]
[illegible] q. 9 nº 2 [illegible]
[illegible] plures [illegible]
[illegible] de [illegible] ardlas
[illegible] 4º [illegible]
[illegible] glos. 10
[illegible]

C [illegible] doctrine inter aliquos [illegible] cam [illegible] primo procedat in foro interiori conscientiae [illegible] ad hoc ut primum testamentum [illegible] sufficiat constare de revocatione et contraria voluntate testatoris quo declaret velle a prima voluntate discedere in eo foro talem hereditatem [illegible] ad eum quem testator [illegible] heredem [illegible] ab intestato et in eo foro non [illegible] secundum testamentum solemne facere nec heredem instituere nec quod ad [illegible] hereditas [illegible] secunda voluntate omnes quidem [illegible] solemnitates in eo foro conscientiae [illegible] et hanc esse [illegible] sententiam [illegible] Antonius Gomez in d. l. 3ª nº 10 ad finem [illegible] ubi proxime d. glos. 10 nº 9 et sequentibus [illegible] et [illegible] 2º d. [illegible] 153 nº 10 [illegible] per hoc [illegible] ad [illegible] in hoc [illegible] inter [illegible] solum [illegible] sententiam et [illegible] in predicta [illegible] —

Contraria quidem sententia quod [illegible] verba [illegible] revocationem primi testamenti [illegible] [illegible] quibus [illegible] vera probatio ut in foro [illegible] per probationem legitimam constare [illegible] de revocatione primi testamenti nec est necessarium quod per secundam voluntatem [illegible] hereditatem nec quod ea voluntas decla

[illegible]
[illegible] voluntatis
testamenti [illegible] ullum [illegible]
[illegible]
[illegible] solemnem [illegible]
[illegible] quod [illegible]
[illegible] ut primam voluntatem [illegible] habeat —

Secundo [illegible] facit [illegible] in [illegible] ad finem [illegible] et [illegible] testamento [illegible] verbis que scripture [illegible] ad [illegible] voluisse omni [illegible] que [illegible] [illegible] testator [illegible] voluntatem esse attendendam [illegible] ut decedat testatus nec intestatus [illegible] testatoris voluntas [illegible] constat [illegible] —

Tertio [illegible] sententia [illegible] 27 [illegible] testamentis ubi inter [illegible] verba habentur [illegible] modo [illegible] non voluisse [illegible] testamenti vel [illegible] verbis [illegible] contrariam [illegible] voluntatem et hoc vel [illegible] non minus [illegible] vel [illegible] et [illegible] testamentum [illegible] contraria voluntate [illegible] verba videntur [illegible] voluntate [illegible] primo voluntatem [illegible] ad revocandum primam voluntatem [illegible] testamentum [illegible] verba [illegible] contraria voluntate quam [illegible] in quam sententiam [illegible] vide [illegible] Covarr. d. [illegible] de testamentis 2ª p. nº 30 vers. [illegible] [illegible] voluntatem [illegible] lib. 2 tit. 15 nº 18 Gregorius Lopez in l. 21 glos. 1ª [illegible]

[illegible]

quod testator declarat [illegible] a prima voluntate [illegible] secunda vero [illegible] testamento [illegible] procedamus [illegible] quando testator in altera voluntate sua declarat [illegible] expresse [illegible] velle a primo testamento discedere et primam voluntatem mutasse, necessarium non est quod haec secunda voluntas fiat cum heredis institutione, vel quod interveniant alia requisita testamenti ut haec secunda voluntas servetur, sed sufficiunt illae solemnitates quae in omnibus negotiis [illegible] requiruntur [illegible] resolvit plene [illegible] quae dispensatione [illegible] utraque parte [illegible] utraque quae ego in [illegible] 3. in l. [illegible] 18 [illegible] 3. [illegible] per integra [illegible] haec utroque [illegible] approbatione [illegible] etiam quod in [illegible] resolvimus dicendo clausulam derogatoriam appositam in primo testamento annullari per secundum testamentum factum sine clausula derogatoria vel ita declarando testator suam voluntatem quod vellet recedere a primo testamento in quo quidem clausula derogatoria erat apposita, declaratio voluntatis est adeo sufficiens ut possit derogare primum testamentum ut [illegible] et tradit [illegible] cardinalis de probationibus 3. tom. conclusione 1283 n. 36 et 43. Quae sententia [illegible] etiam [illegible] quod testator suam voluntatem declarat contra primam dicens se velle a prima recedere dicendo quod cassat et annullat quod in primo testamento fecit, illud sufficit ut censeatur revocatio

[illegible] vel [illegible] quod [illegible] revocando [illegible] [illegible] in d. l. 3a [illegible] d. l. [illegible] recopilat. per quae [illegible] revocationem prioris testamenti declarationem voluntatis [illegible] in nostro Regno tradit [illegible] in d. l. 3a n. 104 ubi late [illegible] plures refert pro materia in d. l. [illegible] n. 6 et [illegible] recopilat.

Unde adverto constare differentiam per utrumque forum de quo supra meminimus, videlicet quod secundum communem primam opinionem in foro exteriori ad revocationem prioris voluntatis requiritur secundam voluntatem esse perfectam institutione heredis testatoris [illegible] ab [illegible] de quibus supra [illegible] at hoc limitatur in foro interiori et conscientiae, in quo sufficit declaratio voluntatis [illegible] probationem non [illegible] eodem foro exteriori [illegible] constare per probationem de revocatione voluntatis [illegible] idem quod requiritur in foro exteriori [illegible] secundario [illegible] ambobus [illegible] requiri in foro conscientiae [illegible] d. l. 1. glos. 10 n. 44 [illegible] non adesse differentiam et limitationem [illegible] sed [illegible] prioris sententiae de qua supra et [illegible] heredem [illegible] hereditatem non obstante [illegible] revocatione —

Ego vero a superiori differentia non discedo intelligendo [illegible] terminos [illegible] [illegible] et [illegible] videlicet quod in foro exteriori et judiciali non solum revocetur primum testamentum [illegible] secundum [illegible] solemnitatibus [illegible] heredem [illegible] quod testator discedat a prima voluntate [illegible] in quo [illegible] testator [illegible] velle discedere a [illegible] voluntate [illegible] revocare [illegible] et hoc [illegible] probatio sufficiens in [illegible] foro

[illegible]

Dif. 259

[illegible]

... [illegible] ... et ...
... [illegible] ...
... [illegible] ... nega[illegible] ...
... [illegible] attenta [illegible] ...
... [illegible] ... metata non [illegible] ...
... [illegible] ... aliorum in ...
... [illegible] ... foro cum [illegible] ...
... [illegible] non requirunt ... [illegible] ...
... quo [illegible] ... ad [illegible] ...
... debent intelligi tradit [illegible] n.º 42
... in foro [illegible] per [illegible] ...
... [illegible] ...
... [illegible] in Valdar. [illegible] ...
... [illegible] ... non ...
... [illegible] hereditatem ad [illegible] ...
... tam heredi [illegible] quam [illegible] ...
... [illegible] ... differentiam ...
... [illegible] ... deque ...
... supra d. n.º 42 —

CAP. 2.

1 Exceptio non numeratae pecuniae quo tempore fuit introducta
2 Exceptio non numeratae pecuniae intra biennium competit ei qui confessus fuerit recepisse pecuniam
3 Exceptio non numeratae pecuniae post biennium competit [illegible] [illegible] probandi non numeratam pecuniam
4 Exceptio non numeratae pecuniae in omnibus contractibus opponi potest
5 Confessio debendi [illegible] intra [illegible] [illegible] potest per actionem non numeratae pecuniae —
6 Non numeratae pecuniae exceptio post biennium competit [illegible] opponens [illegible] in [illegible] probandi
7 Officium iudicis competit post biennium [illegible] exceptione non numeratae pecuniae
8 Exceptio non numeratae pecuniae introducta fuit ad [illegible] [illegible]
9 [illegible] impediendi per exceptionem non numeratae pecuniae
10 Chirographo [illegible] opponi potest exceptio non numeratae pecuniae
11 Juramento [illegible] exceptio non numeratae pecuniae competit —

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

17 R[illegible] ... exceptionem non numeratae pecuniae
18 Delato iuramento an exceptio non [numera]tae pecuniae admittatur.
19 [illegible] de recepto an [illegible] non
20 Praesumptio de [illegible] [illegible]
21 Confessio de [illegible] quando [illegible] exceptionem non numeratae pe[cuniae]
22 Testibus praesentibus confessio de recepto admittitur exceptio non numeratae
23 Reus intentata [illegible] contra creditorem [illegible] potest exceptionem non numeratae pecuniae et contra eum protestare
24 Judicis [illegible] requirat ad exceptionem admittendam et [illegible] quocumque parte [illegible] —
25 Judici quacumque parte exceptio admitti potest
26 Creditoris [illegible] ad [illegible] petendam [illegible] —
27 Officio iudicis [illegible] creditor [illegible] circa non numeratam pecuniam
28 Officium iudicis [illegible] non obstat
29 Officium iudicis competit post biennium
30 Heres et [illegible] opponere potest [illegible] contra creditorem [illegible] exceptionem non numeratae pecuniae —
31 E[illegible] competit exceptio non numeratae pecuniae
32 Heres non opponit exceptionem non numeratae pecuniae contra confessionem in testamento factam
33 L[illegible] vel venditiones contractus non admittitur exceptionem non numeratae pecuniae
34 Mercatoribus petentibus exceptio non numeratae pecuniae locum habet
35 Tertius exceptionem non numeratae pecuniae opponere potest contra confessionem a suo creditore factam
36 Traditionis [illegible] praecedens contra confessionem non admittitur exceptio pecuniae non solutae
37 Generata confessio non admittit exceptionem non numeratae pecuniae
38 Debitor [illegible] solvisse creditori [illegible] condemnatur —

[illegible]

[illegible] non numerata pecunia [illegible]

[illegible] confessio [illegible]

[illegible] exceptio non numeratæ pecuniæ [illegible]

[illegible] sit numeratam pecuniam per [illegible] instrumentum probatur

[illegible] numeratam esse pecuniam [illegible]

[illegible] probatur pecuniam non [illegible]

[illegible] probata numeratione [illegible]

[illegible] debitum quod non [illegible] in foro [illegible]

in foro interiori [illegible] solvere

[illegible] non numeratam in foro [illegible] recepit potest in interiori respondendum est —

CAP. 2. DE EXCEPCIONE NON numeratæ pecuniæ

[illegible] ut adeo [illegible] numeratæ [illegible] inter [illegible] non [illegible] 97. quod in contractibus et [illegible] obligationibus [illegible] quod aliquis [illegible] confitens pecuniam recepisse vel sub spe numerationis [illegible] aliquem mutuum recepisse [illegible] quantitatem [illegible] esse debitorem quibus [illegible]

[illegible] fuisse numeratam [illegible]

1 [illegible] pecuniam quam non [illegible] debitor [illegible] exceptio [illegible] quæ vocabatur [illegible] contra talem petitionem [illegible] 43 [illegible] exceptione [illegible] exceptio [illegible] contra [illegible] probanda erat [illegible] exceptio [illegible] regula [illegible] in exceptionibus 19 ff. de probationibus [illegible] tempore imperatorum [illegible] obligatus per [illegible] ad solvendum cui pecunia non fuit [illegible] numerationis non [illegible] agere vel excipere contra creditorem [illegible] non numeratæ pecuniæ [illegible] exceptio [illegible] illam exceptionem [illegible] pere, verum [illegible] imperatores ut [illegible] ad [illegible] creditores [illegible] exceptionem non numeratæ pecuniæ quod [illegible] 14 in princ. C. de non numerata pecunia [illegible] alegat [illegible] 2a cap. 161 [illegible] —

Regula generalis [illegible] in hac materia si quis in chirographo instrumento privato sibe publico [illegible] vel authentico seu coram testibus [illegible] probationis genere confessus fuerit debere [illegible] et se obligat ad solutionem [illegible] quantitatem recepisse intra [illegible] agere vel excipere [illegible] non numeratæ pecuniæ [illegible] ~~[illegible]~~ [illegible] exceptionis debet [illegible] debitorem

[illegible]

[illegible] fuerat [illegible] § 9 nº 19 et sequentibus [illegible] Prodiat 2º tom. consil. [illegible] 50 [illegible] de præsentationibus lib. [illegible] nº 145 Josephus [illegible] quæst. 417 [illegible] E nº 1 et sequentibus [illegible] [illegible] nº 18 et 2º per totum [illegible] [illegible] decis. 164 [illegible] lib. 2 c. 82 [illegible] sequentibus [illegible] Molina de [illegible] 2 tom. [illegible] decis. 302 Joannes [illegible] Vargas [illegible] 38 per totum [illegible] de [illegible] confirmat. [illegible] c. 37 per totum [illegible] [illegible] ex [illegible] declaratione legis Regni [illegible] per totum [illegible] in l. [illegible] nº 81 et sequentibus [illegible] lib. 4 [illegible] [illegible] lib. [illegible] c. 37 per totum [illegible] Hermosilla in l. 9 glos. 5 per totum [illegible] 1 parte 5 [illegible] Vayo in praxi lib. 1 c. 5 nº 11 Joannes de [illegible] de [illegible] foro art. 1 nº 32 de [illegible] [illegible] hæc exceptio [illegible] intra [illegible] ut [illegible] lib. [illegible] ordinamenti [illegible] 47 in princ. et 88 sequentibus [illegible] Molina [illegible]

Hæc quidem exceptio respectu contractus mutui proprie vocatur exceptio non numeratæ pecuniæ in quo quis confitetur mutuum [illegible] in quo [illegible] facultatem quam quis [illegible] habere ad [illegible] [illegible] mutuationem [illegible] esse intra [illegible] exceptione [illegible] probare [illegible] pecuniam [illegible] mutuum [illegible] esse et ei incumbit onus probandi [illegible] [illegible] vero contractibus per actionem [illegible] proximam [illegible] est proprie vocatur [illegible] rei non traditæ vel pretii non soluti in quibus [illegible] confessus fuerit [illegible] vel rem contractam [illegible]

3

4

[illegible]

[illegible] 95 [illegible] [illegible] sequentibus [illegible] Molina [illegible] 30 [illegible] 5 [illegible] eadem [illegible] de [illegible] [illegible] procedere [illegible] contractibus [illegible] per [illegible] [illegible] et reus confitens [illegible] ad probandum [illegible] confessione nec per creditorem [illegible] [illegible] quam [illegible] confessionem rei [illegible] contra [illegible] [illegible] procedat de æquitate [illegible] [illegible] [illegible] [illegible] 16 nº [illegible] [illegible] [illegible] parte [illegible] sententiam [illegible] canonica [illegible] [illegible] exceptione [illegible] [illegible] probandam [illegible] sententiam [illegible] contrahens [illegible] lib. 2 c. [illegible] per totum de [illegible] quidem quæstione [illegible] parte fundamento [illegible] [illegible] Hermosilla in l. 9 glos. 5 nº 5 et 1 parte 5 [illegible] de [illegible] [illegible] contrariam [illegible] [illegible] admittatur exceptio non numeratæ pecuniæ post [illegible] [illegible] rigore non admitti [illegible] canonico et [illegible] æquitate admitti [illegible] [illegible] [illegible] fundamento [illegible] admittendam exceptionem post [illegible] [illegible] admittendam [illegible] [illegible] [illegible] foro art. 1 nº 32 [illegible] canonica [illegible] [illegible] et quod [illegible] non solum in [illegible] [illegible] præd. [illegible] sed etiam in omnibus [illegible] opponi posse hanc exceptionem non numeratæ pecuniæ vel rei non traditæ vel

pretii

[illegible]

... pro recupilatione predo...
... ea fors rait 4 ... ut in ...
... arcotis Radulphi et ...
... fra 26 l. c. 2. nº 127 et c. 4 nº 148
... probatur in d. l. in contractibus

4 ... non numerata pecunia ubi post
... alleguandae exceptiones fuerunt tracta...
... o non numeratam pecuniam in
... imperatores in eadem exceptione
... abrogando in omnibus contra
... illius legis dispositionem ...
... nostro ... quod idem videtur senti...
... noster legislator in d. l. 9 ult. 2ª parte
in quo dicto abrogando de debitis con
tractus generaliter etiam de non nume
rata pecunia in mutuo statuit quae de
cisio ampleanda et extendenda est ad
omnes contractus similes quia nunquam
legislator vult legem singularem nec
particularem statuere sed generaliter
ad omnes res et casus similes eandem
rationem habentes ut per glos. in l.
quod vero 14 ff. de legibus et alios doctores
relatos in notabilis ... juris d. 1 q.
2ª nº 6. 6 Secundum aequitatem canoni
cam etiam hec resolutio procedit quia
aequitas canonica postulat ut mutuum non re
ceptum opponi possit de non numerata
re mutua eademque aequitas versatur in
quocunque contractu quo se quis obli
gavit confitendo recepisse rem vel scrip
turae solutionis ad quid necessitur in
aequitas canonica est ut non more
at obligatus et sicut ne possit de
fendere in mutuo prolongo nudando cons
cientia inique creditoris in aliis con
tractibus possit non numeratae rei ex
ceptionem opponere vel agere cum ibi
eadem causa cum creditoris cedat
ad quod videndum ratione admitti debet
talis exceptio non numeratae pecuniae

9 ... quod non ... non ...
... pro ... non ...
... singularis ...
... pecuniae a quo ...
... iudicando ...
vel aliis similes ...
... fuit ...

Sufficientia vero procedit quia ex
scriptura receptae adhuc ...
gat et opponit exceptionem non numera
tae sed quaeritur sit confessio non ...
obligandum confitentem sed ad ...
debitorem quo creditori ...
narrationis fateri receptam ...
... debitori concedit ... exceptionem
numeratae pecuniae non dictat ...
... creditori ... et ...
debitori ... probare solutionem ...
... creditori confitenti exceptionem ...
... probare non esse et solutam ...
... proxime ... solutionis ...
probat ... in d. l. in contractibus 14 §
... non numerata pecunia ...
... in d. l. 9 glos. ... part. 5. ...
... c. ... ad finem
... 302 col. 2ª ad finem ...
... d. lib. 1 c. 37 nº 4.

Sed advertis hanc resolutionem ...
... 6 ... in d. c. 82 ... non
numerata pecunia ... vero ...
... exceptio ... querimoniam creditore ...
deducto omnino ... pupillus ...
debitum solvere compellitur ... l. ...
10 ... quod exceptio non numeratae pecu
niae ... querela ...
... d. l. in contractibus 14 ... sed
... et ... nullo
modo querela non numeratae pecuniae in ...
possit ... d. prim. ... debitor ... obligat ...
ut ... exceptio
... non competat ... exceptio ...
... d. l. in contractibus ... eodem
... quod ... exceptio ...
exceptionem ... non esse
... solutas pecunias vel aliquas ...

[illegible]

[illegible] hereditario [illegible] relinquat [illegible] ... Hermosilla in l. 9 glos. 5. n. 8. tit. 1. part. 5.

7 Post biennium ut obligatus ad solvendum vel ex persona possit proponendo exceptionem non numeratae pecuniae [illegible] videtur probatum esse [illegible] admittendum confessus [illegible] debitor [illegible] iudicis officio [illegible] admittenda [illegible] confessionem contra pro confessione allegando non numeratae pecuniae exceptionem [illegible] vel [illegible] non solutum vel generaliter dicendo non [illegible] ad me obligandum [illegible] apponendo in libello [illegible] officium iudicis [illegible] ut solet semper in omnibus libellis apponi [illegible] solet [illegible] in hac specie necessario [illegible] officium iudicis [illegible] ad [illegible] exceptionem non numeratae pecuniae [illegible] exceptionis [illegible] officium [illegible] Ioannes Gratianus d. reg. 162 n. 8. [illegible] Hermosilla d. l. 9 glos. 5. n. 25.

8 Dubitatur de hac materia [illegible] exceptionem non numeratae pecuniae intra biennium [illegible] probandi numerationem [illegible] post biennium [illegible] probare non [illegible] hac exceptio non numeratae pecuniae [illegible] probare [illegible] negat [illegible] probare [illegible] probandum [illegible] ideo ab onere probationis [illegible] d. consil. 695 n. [illegible]

[illegible] numeratae [illegible] dolo [illegible] probare dolose non [illegible] confessionem [illegible] d. consil. 695 n. 5. [illegible] fraudem [illegible] l. [illegible] 7. [illegible] probatione [illegible] Ioannes de [illegible] n. 88 [illegible] exceptio non numeratae pecuniae [illegible] quae non numerabatur fraudem [illegible] intra biennium [illegible] exceptionem competere [illegible] intra [illegible] numeratio [illegible] ad non numerationem probandum [illegible] probatus [illegible]

9 Quod [illegible] in [illegible] exceptio non numeratae pecuniae opponi possit in via [illegible] instrumentum [illegible] pecuniam vel quid simile esse numeratam [illegible] obligatur [illegible] vel certam quantitatem solvendam [illegible] ad certum diem [illegible] creditor [illegible] instrumentum [illegible] non numeratae pecuniae [illegible] hac exceptio admittatur [illegible] proxime [illegible] fundamenta [illegible] loco [illegible] prolonga [illegible] numeratio [illegible]

pro [illegible]

[illegible]

[illegible] ... c. 7 ... [illegible]
[illegible] ... pecuniam non [illegible]
[illegible] resolutive [illegible]
lib. 4 recop. [illegible]
[illegible] contra instrumenti confessionem
[illegible] exceptiones [illegible]
probando in traducendas [illegible]
[illegible] impediendam instrumenti executio-
nem in hac exceptione [illegible]
[illegible] quod
[illegible] exceptionem probatam [illegible]
non numeratam pecuniam et ea quae [illegible]
proxime resolvimus [illegible]
[illegible] impediendam executionem [illegible]
[illegible] n° 1 et 12 et
sequent. [illegible] Joannes Garcia
[illegible] n° 15 [illegible]
[illegible] q. 3a n° 24 [illegible]
n° 21 lib. 4 recop. [illegible]
[illegible] lib. 1 c. 16 n° 11 [illegible]
tom. 4 p. 1 [illegible] c. 3 n° 5 [illegible]
[illegible] c. 6 n° 3 [illegible]
Rodriguez [illegible] executivis [illegible]
n° 12 et 13 [illegible] Caballos communes
contra communes 1 tom. q. 89 n° 1 Villadiego
[illegible] c. 2 n° 102 [illegible]
[illegible] lib. 1 c. 37 n° 6
[illegible] Hermosilla in l.
[illegible] glos. 2 n° 5 [illegible]
resolutionem quam [illegible]
[illegible]
lib. 2 c. fin. n° 51 et 52 et [illegible]
[illegible]
[illegible]

[illegible]

[illegible]
[illegible] non numeratae pecuniae [illegible]
[illegible]
[illegible] non numeratae pecuniae [illegible]
[illegible]
[illegible] ad probandum [illegible]
[illegible] instrumento [illegible]
[illegible]
exceptio [illegible] non impedit [illegible]
[illegible] exceptio [illegible]
[illegible] probandi exceptionem non nu-
meratae pecuniae quod [illegible] in praxi
[illegible]
cedo plura [illegible] fundamenta [illegible] quod
lib. 2 c. fin. [illegible] 85 n° 12 [illegible]
[illegible] contrarium [illegible]
[illegible] lib. 2 c. [illegible]
[illegible] Villadiego [illegible] c. 2 n° 30 [illegible]
[illegible] lib. 1 c. 37 n° 6 ad finem [illegible]
Hermosilla [illegible] glos. 2 n° 11 [illegible]
[illegible]
et quod [illegible] hanc exceptionem
non numeratae pecuniae [illegible]
[illegible] probandi [illegible]
[illegible]
[illegible] probata pecunia [illegible]
[illegible] quam [illegible]
proxime resolvimus [illegible]
[illegible]
[illegible] —

Adeo quidem [illegible] est hac exceptio
non numeratae pecuniae ut [illegible]
[illegible] mutuum [illegible]
[illegible]
mutuum [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

... contra iuramentum ... [illegible]

12

[illegible]

13

[illegible]

Circa quam communem resolutionem notabis quod attento iure regio de in esse quo admittitur contra iuramentum exceptio non numeratae pecuniae ... [illegible]

... exceptionis

[illegible]

... doct. Vasq. ...
... resolvit ...
... lib. 2 c. 37 ad finem

Item addo quod licet in
casu quo quis confessus est pecuniam
[illegible] se obligavit [illegible]
liberum fuit opponere exceptionem non
numeratae pecuniae quod solvat [illegible]
[illegible] potest [illegible]
opponere exceptionem non nume-
ratae pecuniae [illegible]
[illegible] de qua [illegible]
[illegible] cum similibus et per
[illegible] resolvit [illegible]
[illegible]
[illegible]
[illegible]
[illegible] probari non posse nu-
meratam pecuniam [illegible]
[illegible]
[illegible] solutionem [illegible]
[illegible] vel
promissit [illegible] solvere [illegible]
[illegible] numerationis non
[illegible] pecuniam
non [illegible] solvendam et nume-
randam [illegible] creditor
[illegible]
[illegible] obliga-
tione [illegible]
[illegible]
[illegible]
probandi [illegible] credi-
toris [illegible]
[illegible]
[illegible]
[illegible] solvere
Hermosilla in l. 4 glos. 7 n. 5 et
1o. Partita 5

[illegible]

[illegible] dicendo quod si renunciatio est
in instrumento renunciationem [illegible]
effectu fuerit [illegible] impedimento [illegible]
opponere eandem exceptionem non
numeratae pecuniae quia eadem faci-
litate qua quis [illegible] ad confi-
tendum pecuniam recepisse [illegible]
ad solutionem [illegible]
exceptionem renunciandam [illegible]
[illegible] solutionis vel nu-
merationis et tunc illa renunciatio [illegible]
[illegible] sub intellecta conditione
si fuerit pecunia numerata, verum si ea
renunciatio fuit [illegible] vel in alio
instrumento cessat illa sub intellecta conditio
et semper videtur [illegible] voluntatem [illegible]
quam [illegible] obligavit ad solutio-
nem quae quidem [illegible]
[illegible] nostrum Regnum [illegible]
est [illegible] renunciationem excep-
tionis non numeratae pecuniae [illegible] in eodem
instrumento [illegible] incontinenti vel [illegible]
[illegible] renunciata non posse
opponi [illegible] exceptionem [illegible]
[illegible] verba [illegible] l. 2 [illegible]
ad finem [illegible] que [illegible]
de que [illegible] recibido [illegible]
dos renunciasse [illegible]
no [illegible] de la [illegible]
[illegible]
[illegible] renunciamiento.
[illegible] glos. [illegible] in l.
[illegible] 3o. C. de non numerata pecunia
[illegible] Communem [illegible]
[illegible]
[illegible] declarat [illegible]
[illegible]
[illegible]
[illegible]
[illegible] lib. 2 c. 7 n. 3 Antonius Gomez in

[illegible]

... n. 51. [illegible]
quam resolutionem intellige [illegible]
[illegible] non [illegible]
biennium debitor [illegible]
[illegible] probandi exceptionem non nu
[illegible] pecuniae quia [illegible]
non numeratam pecuniam [illegible]
[illegible] admitti [illegible]
[illegible] quod onus probandi
[illegible] exceptio
[illegible] biennium [illegible] debitor [illegible]
exceptionem opponentem [illegible] quod [illegible]
renunciatione exceptionis [illegible]
biennium etiam si debitor afferat in se onus
probandi hanc exceptionem non debeat ad
mitti sed teneri ad solutionem quod [illegible]
[illegible] Gregorius Lopez [illegible] omnes [illegible]
[illegible] in d. l. 9. glos. [illegible] ad finem quod [illegible]
[illegible] contra resolutionem [illegible]
[illegible] communiter [illegible] ut post
biennium admittatur debitor ad exceptionem
opponendam suscipiendo in se onus probandi
[illegible] non [illegible]
casu renunciationis post biennium non ad
mittatur suscipiendo in se onus probandi ma
xime cum [illegible] secundum qua
litatem [illegible] propter veram esse
resolutionem [illegible] non obstante renuncia
tione post biennium admitti posse debito
rem ad exceptionem opponendam [illegible]
mat in se onus probandi in quam sen
tentiam [illegible] de
exceptione non numeratae pecuniae n. 5 vers.
[illegible]
d. conclusione 695 n. 17.

Accedit hic declarandum quod ista
[illegible] renunciatio exceptionis fuerit juramen
to firmata et renuncians juraverit non
17 contravenire [illegible] renunciationi hanc ve
rissima sententia est quod [illegible]
in se onus probandi exceptionem non nu
meratae pecuniae non admittatur nec [illegible]

[illegible]
[illegible] non [illegible]
[illegible]
[illegible] non [illegible]
[illegible] debitores [illegible]
[illegible]
[illegible] in loco [illegible]
[illegible] quod [illegible] procedatur contra
[illegible] instrumenti [illegible]
[illegible]
ut solvat [illegible]
ordinaria [illegible] agere et exceptio
non numeratae pecuniae intentare et pro
bare.

Multoties in instrumentis [illegible]
[illegible] solet [illegible]
solo [illegible] liquidationem quantita
18 tis quam confessus est debitorem recepisse [illegible]
[illegible] obligatum [illegible] quantitate quo
[illegible] juramento [illegible]
[illegible] per debitorem [illegible]
juramentum [illegible] quantitate instru
mentum est liquidum et executioni est
mandandum [illegible] instrumentum
[illegible] juramenti [illegible]
admittatur exceptio non numeratae pecu
niae [illegible] cum [illegible]
[illegible] juramentum [illegible]
et [illegible] debere [illegible]
[illegible] quantitatem non posse oppo
exceptionem non numeratae pecuniae [illegible]
[illegible]
in d. l. [illegible]
[illegible] n. 29
[illegible] quod [illegible]
[illegible] resoluta [illegible]
debitor opponens exceptionem non nume
ratae pecuniae [illegible] onus probar
di non [illegible] pecuniam numeratam
[illegible] biennium [illegible] post
biennium et ita debet intelligi.

Infertur [illegible] secundum [illegible] admi
tatur hic exceptio non numeratae pecuniae

questiones

[illegible]

... vidisse pecuniam numeratam [illegible] ... confessione mediante non [illegible] ... exceptio non numeratae pecuniae quam ... [illegible] ... confessorem coram ... habere [illegible] quo tabellio fidem facit ... notarius in l. [illegible] ... l. [illegible] ... de verbor. signif. ... primus 7 in princ. ... glos. verbo prosessionem ... clero ... ad finem ... professionem ... perforalem de ... ubi glos. verb. professio ... alegat ... rationem quod ... probatio ... opponentem exceptionem necessa[rium] ... non obstante fide notarii semper ... admittenda et ... vidisse numerationem ... notarii ... de [illegible] c. 44 n. 5 ... d. l. glos. 7 n. 6 et sequentibus ...

Si quis in [illegible] confessus fuerit se recepisse pecuniam vel mutuum seu aliquam rem ... ad debitum ... confessionem ... exceptio non numeratae pecuniae ... dicendum ... non

... probatio ... exceptio non numeratae pecuniae ... conclusiones ... glos. 7 n. 45 et hoc ... confessio ... d. glos. n. 14 ... conclusionem admittendam ... probandi eam exceptionem ... non fuisse numeratam.

Supersunt quidem ... non solum quando confessio ... in instrumento ... numerationis ... exceptio ... onus probandi ... admitti ... probationis ... instrumenta ... obtinere l. ... 15 C. de fide instrument. et eadem ... per glos. ... C. de non numer. pecun. ubi ... 4 ... glos. ... d. l. ... glos. 7 n. 12 ... exceptionem ... quod probandi ... numerationem ... exceptio ...

Competit haec exceptio reo ... defendendum contra actorem ... quod ... non ... quod ... numeratio

[illegible]

[illegible] numeratae [illegible]

[illegible] exceptio non [illegible]

[illegible] cum sciat fuisse allegandam exceptionem [illegible] l. [illegible] simulas et confessas in [illegible] ne [illegible] tempus [illegible] non [illegible] intra illud tempus [illegible] nihil [illegible] potest [illegible] illam exceptionem intentare [illegible] et [illegible] quae sententia [illegible] in l. [illegible] C. de non numer. pecun. glos. verb. exceptionem in [illegible] de [illegible] allegat [illegible] gregorius lopez in d. l. 9 glos. 3a. tit. 1. part. 5a. [illegible] in d. l. [illegible] verbo seu non numeratae pecuniae nº 2º C. de non numer. pecun. Antonius Gomez [illegible] c. 6. nº 2º versic. sed obstat [illegible] de [illegible] 10 [illegible] et alios [illegible] Hermosilla in d. l. 9 glos. 3a per [illegible] 7a nº 25 [illegible] glos. 3a [illegible] resolvit. [illegible] debitor [illegible] contra creditorem et [illegible] quod [illegible] intra [illegible] onus probandi numerationem et aliter non [illegible] debitor [illegible] et [illegible] exceptionem resolvit Hermosilla in d. l. 9 glos. 6a nº 59 [illegible] post [illegible] ad non numerationem probandam ut [illegible] diximus —

Verum haec exceptio [illegible] non numeratae pecuniae [illegible] necessarium est quod [illegible]

24 [illegible] authoritate fiat et de inde non sufficere protestationem contra [illegible]

25 [illegible] non [illegible] post [illegible] probando [illegible] quae [illegible] intra [illegible] onus probandi [illegible] et ipse ad probandam non numerationem [illegible] non [illegible] in quacumque parte [illegible] autem [illegible] doctores nihil [illegible] quaestiones [illegible] post [illegible] et [illegible] probandam non [illegible] post post [illegible] in causa non [illegible] in causa appellationis illud probare [illegible] quod [illegible] post [illegible] quod partes [illegible] ad probandum [illegible] et [illegible] probabiliter obtinere possit.

Sed [illegible] obstat quod [illegible] confessio [illegible] in praesentia creditoris [illegible] doctores [illegible] competere exceptionem non numeratae pecuniae quia [illegible] non [illegible] quod confessus [illegible] et tempore [illegible] contra creditorem praesentem [illegible] illud [illegible] exceptio [illegible] perpetua [illegible] l. [illegible] 14 [illegible] C. de non numerat. pecun. glos. in l. [illegible] Hermosilla in d. l. 9 glos. 6a nº 60. [illegible] de [illegible] 2º tract. 2º d. [illegible] 302 col. 4a versic. in [illegible] quod [illegible] authoritas [illegible] exceptio [illegible] perpetua [illegible] non [illegible] authoritas [illegible] quod in [illegible] praesentia debitoris [illegible] illud [illegible] quod [illegible]

[illegible]

[illegible] quod in [illegible] [illegible] novam est [illegible] [illegible] postquam [illegible] [illegible] et hoc est quod [illegible] [illegible] voluisse [illegible] contra [illegible] [illegible] ob id quod gregorius lopez in d. l. 9 glos. 4ª ad finem dixit quod [illegible] [illegible] pagando [illegible] ut [illegible] in [illegible] authoritate judicis [illegible] [illegible] forma [illegible] judice [illegible]

Multoties debitor qui non recepit quod se obligavit considerans se non posse probare pecuniam non esse numeratam [illegible] quod fuit transactum [illegible] utraque quod in creditorem transferatur onus probandi postulat juramentum creditori ut de [illegible] compellendum [illegible] ad jurandum qui [illegible] illud juramentum [illegible] venire ad jurandum [illegible] compellendus in quo est magna dubitatio [illegible] [illegible] dubitatione [illegible] tenendum [illegible] creditorem [illegible] debitoris [illegible] juramentum facere [illegible] non numerata pecunia respondere et ad id esse compellendum [illegible] habeat [illegible] causam [illegible] quae [illegible] judiceus [illegible] prudente [illegible] [illegible] quis compellendus propterea sententia est [illegible] l. 184 ad finem [illegible] [illegible] [illegible] impedimento de la parte [illegible] [illegible] [illegible]

28 [illegible] non [illegible] [illegible] [illegible] intelligi [illegible] [illegible] et non [illegible] 40 [illegible] l. 4ª [illegible] [illegible] quod [illegible] [illegible] et non [illegible] [illegible] [illegible] concedat [illegible] [illegible] [illegible] [illegible] protestc. zapata c. 13 nº 59 [illegible] [illegible] [illegible] c. d. l. 184 [illegible] [illegible] ut [illegible] nunquam [illegible] [illegible] habere [illegible] vel [illegible] contra [illegible] [illegible] et [illegible] de [illegible] por no [illegible] impedimento de la parte [illegible] [illegible] proprio arbitrio non expedire [illegible] [illegible] non numerata [illegible] [illegible] [illegible] [illegible] [illegible] nullo [illegible] debitor [illegible] quatenus competat ei officium judicis per verbum [illegible] quod committitur potestas judicis [illegible] [illegible] non [illegible] injuriam [illegible] [illegible] [illegible] quod [illegible] [illegible] practicarum conclus. 1º tom [illegible] conclusione 415 nº [illegible] 12 resolvit [illegible] [illegible] c. 13 nº 62 adque [illegible] [illegible] [illegible] creditorem [illegible] intelligens [illegible] [illegible] procedere [illegible] secundum aequitatem quam judices [illegible] habere debent et [illegible] [illegible] [illegible] [illegible] [illegible] gregorius lopez in d. l. 9 glos. 4ª ad finem et [illegible] [illegible] [illegible] [illegible] [illegible] conclus. 1119 nº 3 [illegible] l. 1 [illegible] 89 [illegible] [illegible] 68 [illegible] [illegible] [illegible] [illegible]

27

[illegible]

... [illegible] ... esse [illegible]

... [illegible] numeratam pecuniam ... [illegible] medium [illegible] ... ab heres officio non vero ... [illegible] sed mediante exceptione ... obstat probare ad creditorem ... [illegible] a parte et non aliter ... [illegible] exceptione et exceptio ... [illegible] proponere non ... quem officio judicis mediante ... [illegible] exceptione ... [illegible] ad finem ff de petitione hereditatis ... ad finem ff ... cause ... [illegible] ... resolvit Bartol. in l. [illegible] ... num. 7 ff quod vi aut clam ubi ... [illegible] plura in hujus doctrina ... [illegible] ... et etiam in proposito fr. generaliter ... [illegible] ... exceptio non ... [illegible] ... nisi per officium judicis quo implorato et non aliter exceptio ... [illegible] ... non numeratae pecuniae ... [illegible] ... competit ... privilegium ... [illegible] ... Baldus in l. [illegible] ... officio ... hoc ... [illegible] ... probat ... 3 tomo ... 1237 num. 10 et 11 ... [illegible] ... in l. 3 ... [illegible] ... omnium ... [illegible] ... 1 ... num. 30 —

Ideo hec omnia dicta et dicenda procedunt ... [illegible] ... pecuniam ... [illegible] ... intra biennium ... [illegible] ... exceptionem ... [illegible] ... intra biennium ... [illegible] ... non ... [illegible] ... obligatus ... [illegible] ... biennium ... [illegible] ... probandi non numeratam pecuniam ... [illegible]

30

... [illegible] ... non ... exceptione ... [illegible] ... num. 4 resolvit ... [illegible] ... num. 3 et 4 et 1 parte 5 —

Quodenim de ... [illegible] ... 30 ... [illegible]

32 ... [illegible] ... contractum ... precedente ... vel contractum ... [illegible] ... oblato ... vero ... confessio ... in testamento vel ultima voluntate ... quo debitor ... [illegible] ... exceptionem non numeratae pecuniae ad solvendum est condemnandus quia ultima voluntate confessus ... [illegible] ... numeratam ... [illegible] ... verb. 6 ... [illegible] ... Antonius Gomez variarum c. 6 num. 3 ... [illegible] ... l. [illegible] 302 col. 5 vers. quando debitor ... ad finem ... [illegible] ... num. 5 ... [illegible] ... num. 4 ... [illegible] ... 6 ... num. 2 ... [illegible] ... l. 9 ... num. 40 et num. 43 resolvit revocato testamento non revocari confessionem ... [illegible] ... heredes ... [illegible] ... acceptatam ... [illegible] ... testamentum ... [illegible] ... resolutis ... [illegible] ... per Joannem Gutierrez practicarum lib. 3 q. 97 per totam —

Nec etiam competere hanc exceptionem non numeratae pecuniae intra biennium ... [illegible] ...

33 vel ... [illegible] ... debitor ... [illegible] ... exceptionem ... [illegible] ... non numeratae pecuniae contra Antonium Gomez d. c. 6 num. 4 resolvit ... [illegible] ... 302 col. 5 vers. quando debitor ... [illegible] ... probandum ... debito ... [illegible] ...

vers. ...

[illegible]

[illegible]

38 [illegible] adem exceptionem [illegible] [illegible]

[illegible]

Contra [illegible]

[illegible]

39 [illegible]

[illegible]

37 Indicatum [illegible] exceptionem non numeratae pecuniae [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

43

[illegible]

et par [illegible] ad solvendum [illegible]

[illegible]

46 [illegible] confessio [illegible] solvendi [illegible] non numeratam [illegible]

[illegible]

[illegible] probet [illegible]

[illegible] no 38 [illegible] 1a parte [illegible] quod [illegible]

[illegible] ante matrimonium [illegible]

48 [illegible] confessionem [illegible] matrimonium [illegible]

[illegible] fraudem [illegible] confessionem [illegible]

[illegible] creditoribus [illegible]

[illegible] no 10 [illegible] Bartolus [illegible] 39 [illegible] 40 [illegible]

[illegible] confessionem dotis [illegible] no 53 [illegible] alegat. [illegible] no 17 [illegible] 2o tom [illegible] 439 [illegible] plura [illegible] Thom. Sanchez de matrim. lib. 6 disp. 9 per totum [illegible] 10 [illegible] in quibus dotis confessio [illegible] marito et creditoribus [illegible] lib. 6 [illegible] 99 [illegible] quo [illegible]

[illegible] marito et heredibus [illegible] creditores [illegible]

49 [illegible] exceptio non numeratae dotis [illegible] matrimonium [illegible] intra biennium [illegible] exceptionem [illegible] non numeratae pecuniae [illegible]

[illegible]

[illegible]

[illegible] ... 695 ... 10. **S**[illegible]

[illegible] ... introduci[illegible] ... sciendo ... perdere ... numeratione ... ta de castro 161, nº 19 ... Hermosilla ... glos. ... 13 ... conformis ...

Ex quarta [illegible] ... pupillo ... minores ... [illegible] ... 94 ... numeratione ... Hermosilla ... glos. ... 16 ... [illegible] ... communitates ... [illegible] ... numerata ... [illegible]

[illegible] ... Velint ... proposito ... [illegible] ... 94 ... instrumentis ... 195 ... 695 ... Hermosilla ... 99 glos. ... 11 ... sententiam ... clerici et ecclesie ... [illegible] ... 74 ... 13 ... 4 ... castro 161 ... [illegible]

[illegible]

95 [illegible]

Q[illegible]

[illegible] obligar ad solven[illegible]

[illegible]

S[ecundo] [illegible]

96 [illegible]

[illegible]

R[illegible]

97 [illegible]

[illegible]

[illegible]

99

[illegible] in foro interiori [illegible] absolutionem [illegible]

[illegible]

... cap. 161 ...

... 8 n° 51 —

[illegible] ... in foro Confessionis ... Confessarius ... in foro exteriori ... satisfacere ... conscientiae ...

... 17 ... Confessarius ... conscientiae ...

... cap. 161 n° 18 —

CAP. 3.

1 Plures delinquendo singuli in solidum tenendi sunt

2 Pluribus in solidum condemnatis ... [illegible] ... aliquo ... [illegible]

3 Pluribus [illegible] ... confessarium [illegible]

4 Pluribus damnum dantes ... satisfacere vel ... pro parte ... [illegible] facere —

5 P... [illegible]

6 Plures ... proposito ... [illegible] ... omnes ... ordinarie

7 Plures ... [illegible]

... 18 Ma... [illegible]

19 Ma... [illegible]

20 Ma... peccantes singuli ... in foro interiori ... [illegible]

CAP. 3. DE PENA IMPONEN-DA PLVRIBVS DELINQVEN-TIBVS.

Sicut ... lib. 1 c. 8 n° 30 ... [illegible] ... quod secundum ... delinquentes ... satisfacere ... et non ... in foro ... Confessarius ... satisfactio ... quantitate omnes ... [illegible] ... Confessarium ... pena ... in foro ... quam interiori ... Confessarius —

1 In ... resolvitur quod ... [illegible] ... voluntate ... pena ... interiori ... [illegible] ... Confessarius ... [illegible] ... in foro ... [illegible] ... omnes ... [illegible] ... vel ... [illegible]

[illegible]

... Antonius Gomez ... [illegible]

... Valerius ... [illegible] ... quod ... [illegible]

Nec obstat ... [illegible] ... Valerius ... [illegible] ... 34 ... [illegible]

... Antonius Gomez ... [illegible]

Hinc ... [illegible]

[illegible]

17

[illegible]

20 N

21 N

22 N

23 P

24 L

25 J

26 J

27 J

28 L

29 L

30 J

31 L

32 L

42 C

43 D

44 P

45 C

46 I

47 R

48 R ... legislatoris ...

49 R

50 C

51 L

52 L

53 L

54 L

55 L

56 I

57 I

58 L

59 L

60 T

61 L

62 N

63 M

64 L

65 L

66 L

67 M

[illegible]

CAP. 4 DE LEGIBUS.

[illegible]

[illegible]

[illegible] ex quo [illegible] [illegible] scriptura [illegible] lex [illegible] necessaria [illegible]

[illegible] legem [illegible] scriptam [illegible] quod in scriptura scriptum [illegible]

Secundo [illegible] dicitur quod lex est [illegible] necessaria [illegible] scriptura. Tertio [illegible] legem [illegible] requiritur quod [illegible] de lege condenda [illegible] promulgetur quod [illegible] scripturam [illegible] scriptura necessaria est. Quarto [illegible] scriptura [illegible] Quinto [illegible] scriptura requiritur. Sexto

[illegible] ... requiritur ... [illegible]

Contraria vero sententia est quod validitatem et essentiam et vigorem [illegible] requiratur vel necessaria sit scriptura quam [illegible] ... Pro qua primo facit [illegible] ... [illegible] ... verba [illegible] ... scripta [illegible] ... non scripta ad confitendum [illegible] non debet admitti quia esset [illegible] contra [illegible] ... de auro et argento legato [illegible] ... glossa [illegible] ... leges [illegible] confitendum scripta [illegible] non scripta debent [illegible] ... Secundo facit [illegible] ... scripto de [illegible] ... glossa — Tertio facit [illegible] confitendo [illegible] ... legem non scriptam requiri [illegible] Quarto facit [illegible] ... quod [illegible] scripto in solo [illegible]

[illegible] ... scriptos [illegible] leges [illegible] ... leges [illegible] et facit [illegible] ... in perpetuum [illegible] ... non facit [illegible] ... scriptam vel non scriptam [illegible] ... scripta et non scripta et [illegible] ... ad [illegible] ... ratione [illegible] scriptura in nullo [illegible] vel [illegible] ... necessaria [illegible] ... sententiam [illegible] respondendo [illegible] ... fundamenta [illegible] sententiae [illegible] ... [illegible] quod [illegible]

[illegible]

... quod [illegible] ... lex ... [illegible]

[illegible] ... Castrocollis ... [illegible]

... conclusionem ... [illegible]

... quod [illegible] ...

R... [illegible] ... Valdeta ...

... legis ut legitima [illegible] ... constans ...

... autem [illegible] ... 42 ... [illegible]

... [illegible] ... de legibus ... [illegible]

... 42 ... [illegible] ...

... plures ... [illegible] ... lege [illegible] ...

... [illegible] ... c. 11 ... [illegible]

... autem lex ... [illegible] ...

... secundum [illegible] ... secundum ...

... consuetudinem ... [illegible] ...

... manifesta quoque ... [illegible] ... aliquid ...

... obscuritatem ... [illegible] ...

... communi ... [illegible]

80 ... leges [illegible] ... de [illegible] ...

... prohibentur ... [illegible] ... primum ...

... [illegible] ... 21 ... [illegible] ...

... Doctores legem ... [illegible] ... quod ...

... [illegible] ... 4 p. n. 12 ... [illegible]

43 —

I... quod [illegible] ...

81 ... [illegible] ...

[illegible]

19 [illegible]

[illegible]

[illegible]

... non [illegible] gravaret [illegible] non ... resolutio [illegible] procedit in pena pecuniaria [illegible] ... quod vero [illegible] intellige quando de ... [illegible]

[illegible] 135 ... [illegible]

... 1441 ... [illegible]

... propter [illegible] ... persona ... [illegible]

Ex quibus [illegible] ad finales [illegible] quod [illegible] ... corporalem [illegible] ... [illegible]

03

DIF 7610

... aliquam [illegible] ... quod [illegible]

[illegible] ... in parte [illegible] ordines [illegible] ... vel ... persona [illegible] ... quod ... [illegible]

... 1366 ... [illegible] ... quod [illegible]

... proprie [illegible] ... quod [illegible] honoris ... [illegible]

... testimonio [illegible] ... ad [illegible] ... in memoria [illegible] ... Paulus [illegible] ... 20 quod [illegible] in foro exteriori non vero in [illegible] ... in quo [illegible] ... persona [illegible] 13 ... [illegible]

[illegible]

[illegible] ... proxime dicto n° 10 [illegible]

[illegible]

32

A [illegible] lex [illegible] contra [illegible] et [illegible] [illegible] [illegible] [illegible] et [illegible] valorem [illegible]

9

33

[illegible] lex [illegible] contra [illegible]

34

[illegible] c. 10 [illegible]

30

[illegible] n° 4 [illegible]

[illegible]

[illegible] ... n° 53

E [illegible] [illegible] lex [illegible]

[illegible]

[illegible]

36

[illegible]

35

[illegible]

[illegible]

38

[illegible]

[illegible]

37

[illegible]

40

[illegible]

[illegible]

[illegible] 97 [illegible] ... de [illegible] prob[illegible] ... l. 4 nº 13 ad finem ... recop[illegible] ... nº 98 et 99 [illegible] ... nº 22 [illegible] ... privilegium [illegible] ... [illegible] lege [illegible] ... [illegible] ... [illegible] legibus [illegible] ... commentatoribus ... [illegible] Beluga in speculo principum [illegible] 11 § [illegible] nº 13 [illegible] nº 14 ad finem.

Ex qua resolutione deducitur firmiter tenendum verum esse [illegible] legislatorem esse Deum [illegible] maximum [illegible] supremum et absolutum [illegible] dominium quia [illegible] leges generales statuere [illegible] [illegible] ordinem quae [illegible] omnes [illegible] comprehendere [illegible] et omnes [illegible] obedire tenentur et [illegible] a fortiori [illegible] et [illegible] ordines [illegible] quod [illegible] esse quatenus [illegible] et [illegible] dominus [illegible] omnes [illegible]

44 [illegible] ... [illegible] ... [illegible] ... nº 46 nº 4 ... leges [illegible] ... dominium [illegible] ... [illegible] ... [illegible] leges [illegible] ... [illegible] ... [illegible] ... [illegible]

[illegible]

[illegible] delegibus [illegible]

[illegible]

[illegible] propter [illegible]

[illegible] leges [illegible]

[illegible]

[illegible] in [illegible]

[illegible] statuere [illegible] leges [illegible]

[illegible] in quibus non habent [illegible] 47

[illegible] jurisdictionis [illegible]

[illegible]

[illegible] [illegible] 4 n° 30 [illegible] delegibus

3. c [illegible] 3 [illegible]

[illegible] art. [illegible] 4 [illegible] vel

[illegible] facere [illegible]

cardinalium vel magistratum [illegible]

[illegible]

[illegible] ad [illegible] esse [illegible]

[illegible] d. [illegible] 1 [illegible] 3 [illegible]

Tertio infertur [illegible] generale

[illegible] leges [illegible]

49 propter [illegible] authoritatem [illegible]

[illegible] possent [illegible]

propter [illegible] jurisdictionem quam

habent; [illegible] vero [illegible]

[illegible] quae [illegible] vocantur

[illegible] legem generalem

[illegible] non possent sed tantum in [illegible]

[illegible]

[illegible] quae [illegible]

[illegible] de quibus [illegible]

[illegible]

[illegible] legatum [illegible]

[illegible] possent [illegible]

[illegible] 1 [illegible] 46 n° 4 [illegible]

[illegible]

[illegible]

[illegible] et [illegible]

[illegible] decoque [illegible]

[illegible] n° 8. —

Quarto infertur [illegible] jurisdictionem

[illegible] possunt leges [illegible]

[illegible]

[illegible] ad leges [illegible]

[illegible] in legem [illegible]

[illegible]

[illegible] ad facere noluit [illegible]

[illegible] innovasse

[illegible] propter legem [illegible] in

[illegible] contra

legem fecerunt ab anno millesimo

[illegible] quadragesimo [illegible]

scilicet Regnum [illegible]

[illegible] quod [illegible]

[illegible] quam [illegible]

[illegible] nostra [illegible]

[illegible] 46 col. 5a Caballos et omnes

[illegible] in [illegible] 3a [illegible]

[illegible] delegibus [illegible]

90 art. 3° [illegible] n° 1 [illegible]

[illegible] n° 51 [illegible]

[illegible] art. [illegible] Antonius Gomez

[illegible] 40 in [illegible]

[illegible]

[illegible] de

[illegible]

quo gubernari per [illegible] ... electos vel secundum ... propria [illegible] seu consuetudine ... ac respublica [illegible] ... rempublicam [illegible] ... quae [illegible] ... Principem [illegible] ... respublica habeat ... Principem in quem se ... leges [illegible] ... respublica [illegible]

O[illegible] ... generales [illegible]

[illegible] ... ex naturali [illegible] ... lex aeterna a[illegible] ... quidem [illegible] ... autem quia [illegible] ... per lumen super naturale [illegible] ... ut nos ad legem nobis communicatam ... ad legem aeternam [illegible] ... lex naturalis [illegible] ... quod homines a lege illa ad legem [illegible] ... naturalem ergo hoc [illegible] ... homines in [illegible] ... per legem [illegible] ... lege aeterna [illegible] ... naturalis [illegible] ... legem aeternam ... naturalem [illegible] ... quod Princeps non [illegible] ... legem aeternam naturalem ... [illegible]

[illegible]

... praedicationibus ... [illegible] ... voluntas ... [illegible] ... authoritate ... [illegible] ... verba ... [illegible] ... cogitare quid velit Deus ... [illegible] ... principes ... [illegible] ... quod ex lege aeterna ... [illegible] ... naturali ... [illegible] ... contra legem ... [illegible] ... principes ... [illegible] ... contra factum ... [illegible] ... 1a p. c 38 n. 2. 10 ... sequentibus ...

Nec tamen ... favore ... [illegible] ... contra bonum commune ... [illegible] ... quod pro bono particulari ... [illegible]

... leges ... [illegible] ... singulares ... [illegible] ... sunt leges ... [illegible] ... in utroque ... [illegible] ... quaecumque ... [illegible] ... debent ... [illegible] ... in authent. de ... [illegible] ... leges ... [illegible] ... bonum ... [illegible] ... generales ... [illegible] ... particulares ... [illegible] ... leges ... [illegible] ... pro universo ... [illegible] ... communis ... non in particulari ... [illegible] ... 3 p. ... [illegible] ... q. 9 art. 2 ... [illegible] ... de lege ... [illegible] ... 1a ... n. 16 ... quod ... [illegible]

[illegible]

quod inducat aequalitatem [illegible]

[illegible] pro communi [illegible]

[illegible] necessaria [illegible] quia commu[illegible]

[illegible] de communi [illegible] quia [illegible]

[illegible] inaequalitas [illegible]

[illegible] vel in contrarium [illegible]

[illegible] omittendo permittas [illegible]

[illegible] lex [illegible] inducit [illegible] aequali[illegible]

[illegible], ob quod ad inducendam [illegible]

[illegible] inter omnes subditos [illegible]

[illegible] legem [illegible] virtutem [illegible]

[illegible] permittendi ac puniendi [illegible]

96 leg. [illegible] 7a ff. de legibus [illegible]

[illegible] 46 no. 25 necessarium [illegible]

[illegible] quia [illegible]

[illegible] vel [illegible] aequalitatem [illegible]

[illegible] per [illegible] permittatur [illegible]

[illegible] legem [illegible]

[illegible] omnes [illegible] virtutes [illegible]

[illegible] et [illegible]

Tertio [illegible] quod [illegible]

97 [illegible]

44 et [illegible] 4 c. 14 [illegible]

[illegible]

[illegible] nullum requirent [illegible]

[illegible] 21. et alii [illegible] de probat. vol. 2o concl. [illegible] 31. no. 34 [illegible]

[illegible] legis procedat per [illegible]

[illegible] contrarium [illegible]

[illegible] minorem [illegible]

[illegible] 19 [illegible]

[illegible] contrario ff. de [illegible]

[illegible] glos. [illegible]

[illegible] 2. 98 [illegible]

[illegible] glosa [illegible] verbo [illegible]

[illegible] 2. c. 1 no. 2 [illegible]

[illegible] 15 [illegible]

[illegible] Antonius Gomez [illegible] 45 no. 19 [illegible]

[illegible] contrarium [illegible]

[illegible] 3 [illegible]

[illegible] perfecto [illegible]
[illegible] quod [illegible]
[illegible] loquuntur
[illegible] intelligi de legibus [illegible]
[illegible] non [illegible]
non solum [illegible]
[illegible] regula [illegible]
[illegible] supra dicto [illegible] secundum
[illegible] legem [illegible]
[illegible] legem [illegible] ignorantia [illegible]
[illegible] propterea [illegible]
[illegible] ignorantiae [illegible]
[illegible] contra legem commissi maxime [illegible]
[illegible]
Hec quidem [illegible] solum [illegible]
70 [illegible] in lege posita [illegible]
[illegible] quidem [illegible] naturalis [illegible]
[illegible] legem [illegible] supra n. 42 [illegible]
[illegible] necessaria acceptatio

[illegible] in ordinante [illegible]
[illegible] lex [illegible]
[illegible] lex lata [illegible]
[illegible] plures [illegible]
[illegible] leges [illegible]
[illegible] dixi [illegible]
[illegible] quia [illegible]
[illegible] nullo modo [illegible]
[illegible] acceptatione [illegible]
[illegible]
Major quidem [illegible]
[illegible] necessariam [illegible]
[illegible] legem [illegible]
[illegible]

[illegible] et
[illegible] seculari [illegible]
[illegible] intelle[illegible]
[illegible] privilegia [illegible]
solve [illegible] de maioritate c. 1
[illegible] et quomodo [illegible]
disputando quaestionem [illegible]
[illegible] materiam repellere [illegible]
[illegible] vadit morta [illegible]
n° 2 q. [illegible] plura [illegible]
per plures [illegible] Valascos
[illegible] Eduardo resolvit [illegible]
[illegible] [illegible] 1a p. c. 17 [illegible]
[illegible] sequentibus [illegible] authoritate
[illegible] plura [illegible] vadit
Salgado de [illegible] in [illegible] 1a p.
c. 1 [illegible] 1 n° 42 nec refert esse
[illegible] apud [illegible] principe
[illegible] unusquisque eorum [illegible]
[illegible] jurisdictionis [illegible]
79 non [illegible] per [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] ut [illegible] commodius [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] Pontifice [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] imperium [illegible] [illegible]
[illegible] et peccata [illegible]
esse debet non a [illegible] [illegible]
[illegible] [illegible] ad [illegible]
[illegible] [illegible] [illegible]
[illegible] in [illegible] [illegible]
de [illegible] resolvit Salgado de [illegible]
[illegible] Bullarum 1a p. c. 1 [illegible]
n° 62 [illegible] [illegible]
[illegible] ecclesiasticus [illegible]

[illegible]
[illegible]
[illegible]
[illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] lib. 3 c. 6 n° 6 [illegible]
[illegible] [illegible] n° 1 de [illegible]
plures [illegible] Antonius gomes in
[illegible] [illegible] Thom [illegible]
[illegible] n° 7 de [illegible]
[illegible] idem antonius gomes in [illegible] 40 n° 56
[illegible] Paez in [illegible] q. 10
[illegible] [illegible] [illegible]
23 n° 36. plures [illegible] [illegible]
n° 22 [illegible] lib. 1 [illegible] idem in [illegible]
n° 3 et 9 lib. 3 [illegible]
1 lib. 3 [illegible] [illegible]
[illegible] in [illegible] 10 n° 12 de [illegible]
[illegible] [illegible] [illegible] gutier.
[illegible] lib. 1 c. 14 n° 55 [illegible]
idem Joannes gutier. [illegible] lib. 2 c. 27 n° 11 [illegible]
plures [illegible] Eduardo [illegible] quaestionem [illegible]
[illegible] disputando fundamenta [illegible]
[illegible] vadit [illegible] non solum [illegible]
[illegible] 1 q. 7a n° 5 [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] vadit [illegible] in [illegible]
[illegible] lib. 5 [illegible]
[illegible] cum [illegible] et [illegible]
[illegible] Joannes [illegible] 362 per
totam [illegible] plures authoritates [illegible]
[illegible] Eduardo pro contraria [illegible]
[illegible] [illegible] contrarij
authoritatibus [illegible]
[illegible] [illegible] 5 [illegible] 3a [illegible]
quentibus [illegible] [illegible] [illegible]
jurisdictione 4 p. [illegible] 1 n° 3 [illegible]
75 n° 11 [illegible] [illegible]
lib. 5 c. 6 [illegible] Vasquius [illegible] 2
158 c. 2 n° 5 Boerius [illegible]

[illegible]

[illegible] orta lege [illegible] ... [illegible] quam ... [illegible] causa [illegible] ... [illegible] obligat in [illegible] ... [illegible]

Sed ad quorum culpam [illegible] obliget in [illegible] vel venia[illegible] ad quod [illegible] ... [illegible] in [illegible] c. 9 [illegible] n. 31 et sequentibus plura [illegible] attendendum [illegible] ad verum commune [illegible] ad quem nos remittimus, sed nos claritatis [illegible] quod [illegible]

76 [illegible] ... in loco proxime citato [illegible] aliquando intelligi [illegible] voluntate et intentione vel quando lex disponit per verba [illegible] vel contrarium [illegible] ... ex quibus [illegible] ... sequentibus. Verior quidem [illegible] ... [illegible] ad veritatem attendendum est [illegible] ... [illegible]

[illegible] ... [illegible] vel [illegible] ad culpam [illegible] ... vel [illegible] quod [illegible] ... [illegible] ... in l. [illegible] n. 10 [illegible] ... [illegible] ... [illegible] et art. 5 [illegible] 29.

Circa quam [illegible] ... [illegible]

77 [illegible] ... [illegible] ... [illegible] ... [illegible]

[illegible]

79 [illegible] volumus [illegible] [illegible]

[illegible]

81 [illegible]

[illegible] 17 n.o 10 [illegible]

[illegible] 75

[illegible]

DIF. 262 [illegible]

[illegible]

[illegible] ... [illegible]
... [illegible] ...
... voluntatem contra ...
... [illegible] peccatum ...
... [illegible] ...
... solum [illegible] de [illegible] foro
... n° 100 —

Quaeritur [illegible] ... per leges prohibitione [illegible] ... quod requiritur ... [illegible] ... lex ... [illegible] ... lex est ... ratione fundatur ... [illegible] ... leges ... praedicta requiruntur ... dictum est per consequens [illegible] ... lex ... cognoscerimus [illegible] ... contrarius [illegible] ... n° 1 ... [illegible] ... quaestio ad quam ... [illegible] ... 73 n° 1 ... [illegible] ... c. 38 n° 21 ... [illegible] ... n° 40 ... [illegible] —

Secundo quod lex lata de [illegible] ... [illegible] ... quaestio ... valida tam in foro exteriori quam interiori [illegible] ... ad quod [illegible] dicendum [illegible] quod ... lex ... [illegible] ... causa ... lata fuerit ... [illegible] ... peccatum ... [illegible] ... [illegible] foro exteriori et interiori ... [illegible] ... non obligat in foro ... servanda est ... [illegible] ... [illegible] ...

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... [illegible] ...
... in [illegible] ... quod ...
... leges ... [illegible] ...
... non obligat omni foro ...
... [illegible] ...
... de [illegible] ... n° 13 ...
... leges ... [illegible] ...
... [illegible] ... possint sine ulla culpa ... [illegible] ... cum ... [illegible] ... [illegible] ... vel non habente ... [illegible] ... nec in ullius [illegible] ... vel quo [illegible] ... quod de [illegible] ... proxime resoluta ... lex servanda est et obligat in foro [illegible] ... possit servari sine ... peccato ... [illegible] ... leges ... peccatum ... ad quod ... [illegible] ... n° 56 ... quod [illegible] ... lex ... non servari ... non [illegible] ... homo peccat ... [illegible] ... [illegible] ... voluntate ... peccata ... [illegible] ... [illegible] ... in [illegible] ... 27 de ...

89

... [illegible]

[illegible]

... hac solutio ... [illegible] ... in foro exteriori ... [illegible]

Quæ quidem resolutio solum procedit in foro exteriori, ubi semper ... [illegible] ... non vero procedit in foro conscientiæ [illegible]

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... conclusio ... [illegible] ... n° 32 ...

CAP. 9.

1 Præscriptionem valere [illegible]
2 Præscriptionem [illegible] quæ [illegible]
3 Præscriptio est exceptio.
4 Utrum [illegible] quod [illegible] exceptio.
5 Contrahens [illegible]
6 Præscriptio [illegible] contrahens et quod dat uni [illegible]
7 Præscriptio [illegible] dominium [illegible]
8 Præscriptio [illegible] ad [illegible]
9 Præscriptiones [illegible] ad [illegible]
10 Præscriptio [illegible]
11 S[illegible] præscriptio [illegible]
12 V[illegible] non [illegible]
13 V[illegible] et obedientia [illegible] præscriptio [illegible]
14 D[illegible] non [illegible]
15 P[illegible] possunt præscribi.
16 H[illegible] præscribi non [illegible]
17 Communes [illegible] non præscribuntur

Libro 3

[illegible]

35 Possessio [illegible] servientes per villas ... ad servientes praesentes ... ...

36 Possessio de qua loquitur ... naturalis est civilis

37 Possessio naturalis qualis sit

38 Possessio animo retinetur

39 Possessio civilis qualis sit

40 Possessio civilis magis [illegible]

41 Possessionum [illegible] [illegible]

42 Possessio naturalis est civilis plurimum ... praescribendum

43 Possessio naturalis non sufficit ad praescribendum

44 Possessor ... negligentia ... possessionem retinet et praescribit

45 Possessio civilis necessaria est ad praescriptionem

46 Praescribere [illegible] non possessor

47 Intelligitur ad legem ... praescriptione longi temporis

48 Possessio naturalis non acquiritur per constitutum

49 C... possessio per constitutum sufficiens ad praescriptionem

50 Clausula constituti sufficiens est ad habendam possessionem civilem

51 [illegible] ... [illegible]

60 Interruptio ... [illegible] ... nem

61 Interruptio possessoris [illegible] proprietatem

62 Intelligitur ad ... praescriptionem [illegible]

63 Interruptio contra principalem ... [illegible] quam de [illegible]

64 Intelligitur ad ... [illegible]

65 Interruptio ... causa interruptio ... praescriptionis

66 Praescriptio interrumpitur per ... [illegible]

67 Interruptio ... praescriptio

68 Interruptio ... causa cessante ... praescriptio

69 Praescriptione completa interruptio ... est

70 Chirographum recognoscens post praescriptionem completam non interrumpit

71 Interruptio praescriptionis in foro exteriori ... [illegible] ... in foro interiori coram Deum ... [illegible] praescriptionem

72 Fides necessaria est ad praescriptionem

73 Titulus verus ... praescribendum

74 Traditio ... necessaria ad praescriptionem quatenus ... sufficit

75 Titulus

[illegible]

[illegible] requiritur processu [illegible]

[illegible] fides quia [illegible]

praescribit

[illegible] de bona vel mala fide qui [illegible] possessor praescribere

[illegible] possessio [illegible]

[illegible] contra [illegible]

[illegible] in principio [illegible]

[illegible]

[illegible] legatum contra

[illegible]

[illegible] praesumitur in praescriptione

[illegible] fides praesumitur in praescriptione decem vel viginti annorum

Bona fides praesumitur in praescriptione triginta vel quadraginta annorum

93 B[ona] fides [illegible] potest in [illegible] ex [illegible] primo [illegible] longum tempus

Bona fides [illegible] praescribit

94 Praescribens non tenetur probare bonam fidem sed qui negat malam probare debet

95 Bona fides a praescribente allegari debet ab [illegible]

96 Nisi allegatio processu [illegible] ut concludente allegationem praesumitur

97 Allegatio [illegible] facienda est licet non ad [illegible] quia ad probandum

98 Immemorialis praescriptio requirit bonae fidei allegationem

99 Praescriptio [illegible] statuto requirit bonae fidei probationem et idem in [illegible]

100 Bona fides secundum [illegible] ut in principio praescriptionis secundum [illegible] canonicum semper durans praescriptioni necessaria est

[illegible]

108 Praescriptio per [illegible] quando [illegible]

109 Praescriptio [illegible] procedit in conscientia [illegible] non admittitur

CAP. 5 DE PRESCRIPCIONIBUS.

Praescriptionum materia meo [illegible] est in iure nostro et adeo [illegible] dum integrum codicem [illegible] quia earum praxis [illegible] necessaria ad lites terminandos mihi videtur [illegible] frequenter et necessariam esse [illegible] Portocarrerus [illegible] lib. 1. c. 1. n. 1. solum in ipsis propositionibus [illegible] necessario pro declaratione nostra [illegible]. Pro ipsa explicatione [illegible] quod plura sunt genera praescriptionum [illegible] tempora solum [illegible] praescribantur a prima [illegible] usque ad centum annos vel ad immemorialem de cuius [illegible] principio non est in memoria hominum de quibus [illegible] mentionem facere volumus [illegible] procedere de variis praescriptionibus [illegible] in hoc codice [illegible] praescriptionibus mentionem [illegible] facere Quintilianus Mandosius [illegible] integrum [illegible] de annalibus [illegible] Didacus de [illegible] integrum [illegible] de praescriptionibus [illegible] de praescriptionibus [illegible] Balbus [illegible] de praescriptionibus [illegible] de praescriptionibus [illegible] annos [illegible] Didacus [illegible]

[illegible]

[illegible] publica [illegible] quod [illegible]

[illegible]

[illegible] praescriptionem [illegible]

[illegible] intelligendum est [illegible]

[illegible] parrochiarum [illegible]

[illegible] propter [illegible] quod [illegible]

[illegible] regnum [illegible] comitatem [illegible]

[illegible] 17 n° 3 et 4 —

16 [illegible] praescriptionem [illegible]

[illegible] obstante praescriptione [illegible]

[illegible] per mille annos [illegible]

[illegible] parte 3 [illegible] 29 [illegible]

tomo [illegible] 79 n° 4.

Septimo in praescriptionibus [illegible]

[illegible] dominium [illegible]

[illegible] et acquirere [illegible]

[illegible] praescriptione [illegible]

[illegible] parte 3 [illegible]

19 [illegible] praecario nomine [illegible]

[illegible] verum dominium [illegible]

[illegible] vero [illegible] praecarium vel [illegible]

[illegible] qui rogabit [illegible]

[illegible] praescribere non possunt [illegible]

[illegible] quem nomine alieno [illegible]

[illegible] non vero [illegible] proprio [illegible]

[illegible] quem nomine alieno possideat eam [illegible]

[illegible] concedendam [illegible] causa generali

[illegible] —

Nono non [illegible] contra

Regem [illegible] dominium debitum

20 [illegible]

[illegible] praescriptione [illegible]

[illegible] praescriptionibus [illegible]

[illegible] praescribi non

possit probat [illegible] parte 3

[illegible] gregorius [illegible]

[illegible] praescriptionem [illegible]

[illegible] praescriptionem [illegible]

[illegible]

[illegible]

[illegible]

... ad ... [illegible] ... 44 ... [illegible] ... 9 17 nº ... [illegible] ... c 101

... decimo ... in praescriptis ... [illegible] ... velut ... [illegible] ... 10 ... [illegible] ... 15 lib 4 recopilat. ... [illegible] ... lib 6 2 c 11 nº 307 quod ... [illegible] ... praescriptione allegandis ... [illegible] ... annos ... [illegible] ... Baldus ... c 38 nº 6 ... Joannes ... [illegible] ... lib 15 nº 2 ... [illegible] ... nº 568

Decimo tertio in praescriptis ... [illegible] ... probant ... [illegible] ... gratuitum faciendum ... ad eq[u]erendum vel ... [illegible] ... non ... [illegible] ... quenquam vel ... [illegible] ... vel ... [illegible] ... praescriptiones ... [illegible]

... [illegible] ... 40 ... [illegible]

Decimo quarto ... [illegible] ... 44 ... [illegible] ... 23 ... [illegible] ... 95 ...

Decimo sexto ... [illegible] ... quod in praescriptis ... [illegible] ... propter ... [illegible] ... Hebraeos ... et ... [illegible] ... Catholicus ... [illegible] ... praescriptionem ... [illegible] ... catholicus ... [illegible] ... Haec ...

29 [illegible] ... [illegible]

... confessi [illegible] ... [illegible]

... [illegible] ... in praescriptione ... [illegible] ... confessata ... [illegible] ... praescriptionem ... [illegible] ... praescriptionem [illegible] ... contra ... [illegible] ... mutationem [illegible] ... de contrahenda emptione ... [illegible] ... lege prohibetur alienatio ... [illegible] ... prohibetur ... [illegible] ... contra legis ... praescriptio non procedit ... [illegible] ... in praescriptibile propter ... [illegible] ... criminis ... [illegible] ... possessor ... [illegible] ... dominus ... [illegible] ... haeretici ... [illegible] ... haereticis catholicis ... [illegible]

... confessi ... [illegible] ... praescriptione ... [illegible] ... praescriptio ... [illegible] ... quod ad hoc ut praescriptio ... [illegible] ... et locum habeat est necessarium ... [illegible] ... requisitum quod res sit ... [illegible] ... praescriptibilis ... [illegible] ... non alias procedit.

Similiter ... [illegible]

30 ... praescribentis ... [illegible] ... mille annos possideat non praescribat ... [illegible] ... quod ... [illegible] ... concurrat possessio ... bona fides ... praescriptio non procedit ... [illegible] ... prohibetur ... [illegible] ... cum lege ... [illegible]

Secundum requisitum ad hoc ut praescriptio procedat est ... possessio

31 ... in praescribente ... [illegible] ... tempore ... [illegible] ... possessio ... [illegible] ... interrupta ... [illegible] ... praescriptio ... [illegible] ... contestationem quae ... [illegible] ... in omnibus ... [illegible] ... praescriptione ... [illegible] ... necessaria ... [illegible] ... possessio ... [illegible] ... praescriptio ... [illegible] ... in omnibus ... [illegible]

et odio

[illegible]

... et in practica de ... praescriptione n° ... vers. ... non habet ... necessaria ... n° 17 vers. quarto ... praescriptionem ... ad praescriptionem ... praescriptio ... lib. 5 c. 2 ... vers. ... possessore praescriptionis ... possessor ... plures ... probationem ... Covarruvias(?) in c. ... n° 5 ... Gutierrez(?) ... n° 6 ... plures referens Hermosilla in l. 9 glos. ... n° 18 ... 2ª partita ... et ... absolute ... possessorem ad praescribendum et habendum bonam fidem ... quod ... Hieronymus Gonzalez in regula cancellariae glos. 8 n° 33 et ... non possidet ... non posse praescribi ... possessionis ... lib. ... glos. 1 col. 2 ... n° 29 ... 3ª ... praescriptionem quantum possessor ... glossa verbo interruptionem ... praescriptionis ... plures referens Salgado de Regia protectione 3 p. c. 10 n° 36 ... in omnibus supra proxime ... in quibus ... praescriptionem ... praescripti ... similes ... possessores ... sunt ...

[illegible]

... quae ... et ... ad ... non ... possidere necessario ... et ... non praescribi ... et ... possessionem ... ad quem ... possessione ... praescribere non ... clericus ... possessionis ... personae ... et ... praescribendi causam ... in persona ... est instrumentum ... quo non ... habere legitimum ad praescribendum ... solet ... l. ... lib. 5 c. 2 ... vers. ... est —

Respondeo reliqua quae non sunt prohibita possideri et praescribi ... vel sunt corporales vel incorporales. Corporales sunt quae sui natura tangi possunt velut fundus, homo, vestis, aurum, argentum et aliae res innumerabiles. Incorporales autem sunt quae tangi non possunt qualia sunt ea quae in iure consistunt ut est hereditas, usus fructus, usus, obligationes et reliqua quae in prosecutione actionis ... possunt et sunt necessaria ... declarat imperator ... corporalibus et incorporalibus ...

[illegible]

... res incorporales neque possi[...]
[...] in l. [illegible] 43 [illegible]
[...] ad quaerendum [illegible] nemo [illegible]
[...] incorporales res [illegible] et
[...] non recipere manifestum
[...] hoc maxime quia non tangi[...]
[...] possessio
[...] et quod hae res incor-
[...] porales praescribi possint saltem non
[...] quae praescribunt con-
[...] adversus res incorporales [illegible]
[...] qui cum temporis [illegible]
[...] per praescriptionem causatum se procedere
debet intelligi [illegible] in l. [illegible]
praescriptione triginta vel quadragin-
ta annorum l. [illegible] de petitio-
ne hereditatis [illegible] proxi-
me d. c. 1 § 7 n. 1, 2 et 3 docet [illegible]
[illegible]
[illegible]

39 [illegible] possessio [illegible] possessio [illegible]
[illegible]
[illegible]
[illegible] servitutes [illegible]
[illegible]
[illegible] possessorio [illegible]
[illegible] n. 10 [illegible]
[illegible] incorporales [illegible]
[illegible] praescriptionem [illegible]
possessionem et usum [illegible]
[illegible] possessionem et praescri-
ptionem intelligi [illegible]
[illegible]
[illegible] d. [illegible] 4 [illegible] n. 11 [illegible]
[illegible]

[illegible]
[illegible] quod in [illegible] possi-
[illegible] naturalem [illegible]
[illegible] cum naturali apprehensione [illegible]
[illegible] in animo [illegible]
[illegible]
ad quod attendendo doctores
dicunt possessorem esse unicum
qua opinione plura [illegible]
[illegible] plures doctores [illegible]
[illegible] Antonius [illegible] in l. 45 n.
[illegible] doctores et
[illegible]
possessorem non unum sed duos [illegible]
esse unde [illegible] possessio naturalis et
possessio civilis [illegible]
[illegible]
[illegible] quod [illegible]
[illegible] possessio non solum civilis
sed etiam naturalis [illegible]
[illegible]
[illegible] civiliter
[illegible] naturaliter possideat [illegible]
[illegible]
[illegible]
[illegible] possessione [illegible] quod [illegible]
[illegible] possessionem [illegible]
[illegible] possessorem [illegible]
[illegible]
[illegible] possessionem naturaliter [illegible]
[illegible] possessionem [illegible]
duo possessores alter civilis [illegible] al-
ter naturalis [illegible]
[illegible] doctores [illegible] pro-
xime [illegible]
[illegible]

hec [illegible]

[illegible]

possessione [illegible] 45 [illegible]

[illegible] possessionem [illegible]

[illegible] naturalem [illegible]

[illegible] adquirendam possessionem [illegible]

[illegible] possideri.

et quod qui possidet aliquam rem [illegible] adquirat a [illegible] naturalem sibi possessionem corporalem possessionem non eadem [illegible] possessio est et notam ad 37 quirendam possessionem per illum textum probat idem Jasson in l. clam poss. [illegible] quia [illegible] n. 21 ff. de ad quirenda possessione. plura fundamenta ponderando varias [illegible] opiniones [illegible] Antonius Gomez in l. 45 n. 19 post medium Tauri [illegible] in d. l. 3. glos. 1. n. 3 [illegible] recopilatur Castillo in d. l. 45 Tauri [illegible] possessionem [illegible] in d. [illegible] possessor [illegible] n. 4. [illegible] ulteriorem Antonius Gomez ubi proxime d. n. 19 ad finem [illegible] probat opinionem dicentium quod si possessio [illegible] naturalis cor[illegible] [illegible] possessionem [illegible] possessio quod quidem

[illegible] possessionem [illegible] possessiones [illegible] possessionem [illegible] possessio [illegible] possessiones [illegible] consequenter.

Est quidem possessio naturalis [illegible] possessione [illegible] ad quirenda possessione [illegible] omnes doctores communiter et [illegible] naturalis possessio dicitur quae [illegible] corpore et animo [illegible] nomine vel [illegible] naturali [illegible] ad quirenda possessione [illegible] possessio [illegible] possessio naturalis [illegible] possessionem [illegible] possessione [illegible] possidere [illegible] vel

[illegible] naturalis [illegible] quia [illegible] corporalis [illegible] ut est [illegible] in dubio quod in possessione naturali [illegible] semel [illegible] in animo retinetur [illegible] de ad quaerendo possessione [illegible] possessione [illegible] possidere [illegible] l. 45 [illegible] [illegible] 1191 [illegible] [illegible] non solum corporali [illegible] animo [illegible] possessionis naturalis [illegible] possidere [illegible] corpora [illegible] in animo [illegible] naturalem possessionem ad quaerendam [illegible] corpore et animo [illegible] ad quaerendam possessionem [illegible] civilis possessio [illegible] possessio [illegible] dominus [illegible] possessio [illegible] in princ. [illegible] ad quaerendam possessionem [illegible] possessio civilis [illegible] dominus [illegible] possessor [illegible] naturalis [illegible] possidere [illegible] ad quaerendam possessionem [illegible] l. 37 [illegible] ad quaerendam possessionem [illegible] 1178 [illegible] possessionis [illegible] ad quaerendam possessionem [illegible]

[illegible] possessio [illegible] civilis [illegible] [illegible] [illegible] [illegible] authoritate [illegible] possessio [illegible] l. 3 [illegible] 1364 [illegible] [illegible] possessione et in [illegible] possessio [illegible] possessionem [illegible] possessionem [illegible] naturalis [illegible] civilis [illegible] authoritate [illegible] civilis possessio [illegible] l. 45 [illegible] civilis [illegible] verbo possessor [illegible] l. [illegible] 34 [illegible] verbo [illegible] possessionem [illegible] possidere [illegible] ad quaerendam possessionem [illegible] corporalem possessionem naturalem [illegible] possessionem [illegible] civilis [illegible] possessio [illegible] naturalis [illegible] civilis [illegible] possessionibus [illegible] civiles [illegible] l. 45 [illegible] civilis [illegible] possessionis naturalis et civilis [illegible] corporalem

cum omne [illegible]

[illegible]

que possidetur [illegible] possessor [illegible] quem [illegible] naturalis [illegible] per quod [illegible] quia [illegible] dominium [illegible] possessionem civilem et [illegible] tempus [illegible] gratuita [illegible]

[illegible] ordinarii [illegible] verbo praescriptio [illegible] glossa [illegible] nº 17 [illegible] possessio [illegible] quae retinetur animo [illegible] possessionem [illegible] possessor naturalis [illegible] praescr. [illegible] possessionem civilem [illegible] possessione civili praescriptio [illegible] procedat docet glossa magna [illegible] in l. 1ª. C. de servis fugitivis [illegible] dicens communem [illegible] Jasson in d. l. 1ª nº 49 ff. de adquirenda possessione —

44 Quae quidem resolutio [illegible] est [illegible] possessor [illegible] qui possidet civiliter [illegible] possessio civilis [illegible] quod animus possidendi [illegible] possessio civilis [illegible] l. [illegible] §. 7 ff. de usucapionibus [illegible] 44 ff. de [illegible] adquirenda possessione [illegible] possessio naturalis [illegible] civilem quae vocatur possessionem [illegible] possessionem naturalem [illegible] adquirendi possessionem civilem et [illegible] possessio naturalis ad praescribendum [illegible] glossa in l. [illegible] ff. de adquirenda possessione [illegible] Jasson in d. l. [illegible] ff. de adquirenda possessione [illegible] glossa 4ª nº 92 [illegible] possessor [illegible]

45 [illegible] fuerint quod [illegible] possessione [illegible] possessor [illegible] naturalis [illegible]

[illegible] praescriptio [illegible] l. 1ª. §. [illegible] quaerenda possessio [illegible] 40 ff. de usucapionibus [illegible] 17 [illegible] 15 ff. [illegible] possessor [illegible] 17 ff. [illegible] 14 ff. de [illegible] verbo praescriptionem ad finem [illegible] servis fugitivis [illegible] possessore ad praescribendum [illegible] possessore civili [illegible] possessore naturali [illegible] praedicta [illegible] docet [illegible] de [illegible] nº 18 [illegible] Jasson in d. l. 3ª §. contrario nº 32 ff. de adquirenda possessione [illegible] dicit communem Antonius Gomez in l. 45 nº 105 et in l. 65 nº 3 [illegible] nº [illegible] 4ª [illegible] in l. 9 glossa 1ª nº 18 [illegible] possessor [illegible] possessione civili [illegible]

46 duo simul [illegible] dominii in solidum contra regulam [illegible] in l. [illegible] ff. commodati l. [illegible] 3ª §. ex contrario ff. de adquirenda possessione quam [illegible] Jasson in d. l. possideri 3ª §. ex contrario nº 33 [illegible] possessoribus in [illegible] personis [illegible]

sed cum

[illegible] est in praescriptione per possessor[illegible] [illegible] cum praescriptio [illegible] possessionis [illegible] [illegible] [illegible]

[illegible]

[illegible] ususfructus [illegible] [illegible] non dominii [illegible] [illegible] possessio datur in rebus usufructus [illegible] [illegible] causa usufructus [illegible] [illegible] [illegible] res usufructuarius et posse[illegible] res possidere [illegible] [illegible] vel [illegible] [illegible] [illegible] [illegible] naturali vel detentione in qua [illegible] possessionis naturalis [illegible] praescriptione possessoriali [illegible] et in hac specie [illegible] [illegible] [illegible] ad finem secundum [illegible] [illegible] [illegible] [illegible] 30 ad finem [illegible] acquirendo poss[illegible] [illegible] [illegible] [illegible] [illegible] proxime [illegible] 9 [illegible] n° 19.

Sed quid si haec possessio civilis [illegible] [illegible] per constitutum et mediante ea clausula dominus venditor [illegible] [illegible] possessionem et emptor [illegible] illam possessionem [illegible] constituat ad [illegible] [illegible] [illegible] praescribe[illegible] [illegible] [illegible] possessiones ne[illegible] [illegible] ad praescribendum [illegible] [illegible] constituto quod possessio naturalis [illegible] [illegible] acquiri [illegible] [illegible] per constitutum [illegible] simul [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] [illegible] per illam rem poss[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad naturalem possessionem simul [illegible] constituto ut naturalis possessio ad [illegible] et [illegible] [illegible] praescriptionis [illegible] [illegible] possessionis [illegible] Covarr. [illegible] [illegible] 45 [illegible] verbo naturalis [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] 77 [illegible] 30 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] constituti possessoris [illegible] [illegible] n° 3 [illegible] [illegible] [illegible] [illegible] n° 5 [illegible] consil. 10 [illegible] 55 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 4 [illegible] [illegible] n° 114 [illegible] 125. [illegible] [illegible] [illegible] [illegible]

91 [illegible] [illegible] [illegible] possessionem [illegible] [illegible] per clausulam constituti [illegible] [illegible] [illegible] naturalem possessionem [illegible] venditor [illegible] [illegible] [illegible] venditio[illegible] [illegible] [illegible] nullo modo hoc est [illegible] permittendum nec [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] venditio non annullatur et [illegible] [illegible] [illegible] quia per constitutum vera possessio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] proxime de [illegible] consti[illegible] [illegible] n° 20 [illegible] 29 [illegible] [illegible] [illegible] [illegible] n° 13 proxime [illegible] [illegible] praescriptionem per possessionem [illegible] clausula constituti [illegible] [illegible] [illegible] [illegible] [illegible] Covarr. [illegible] [illegible] proxime [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] clausula constituti per

92 [illegible] [illegible] [illegible] possessio civilis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] clausula constituti [illegible] [illegible] [illegible]

[illegible] possessio [illegible]

[illegible] clavs. 20 [illegible]
praxi [illegible] c 5 nº 17

In [illegible] resolutione quod [illegible] possessio [illegible] ad praescriptionem [illegible] possessio [illegible] possessionem [illegible] possessio [illegible] possessor [illegible] vel [illegible] requisita [illegible] ad [illegible] [illegible] contra [illegible] possessione [illegible] vel [illegible] verbo [illegible] resolutio [illegible] sufficientem ad praescriptionem [illegible] 20 [illegible] possessionem [illegible] possessionis [illegible] a lege [illegible] probatum [illegible] possessor [illegible] communem [illegible] secundum [illegible] tradit [illegible] possessor [illegible] Antonius Gomez [illegible] tom. 2 nº 20 [illegible] 45 [illegible] nº 34 et 45 [illegible] Antonius Gabriel communium [illegible] lib. 3 [illegible] [illegible] ad [illegible] possessio et [illegible] possessor [illegible] ad praescriptionem

[illegible] requisita [illegible] possessionem [illegible]

[illegible] possessore [illegible] quia interruptio praes[criptionis] [illegible] l. 29 et 29 [illegible] possessore [illegible] communem tradit Antonius [illegible] nº 3 [illegible] 156 [illegible] 49 nº 2

Hec quadruplex interruptio duplici ex causa fieri potest uno modo natura-

99 liter altero civiliter naturalis in-
terruptio est ea quae prohibet et
deficere [illegible] requisita necessaria
ad praescriptionem inchoandam
prosequendam et finiendam unde
licet possessio sit cum bona fide
de quibus nunc agimus [illegible]
[illegible] requisitum
[illegible] praescriptionem [illegible] incipere
[illegible] sed nullo modo procedere nec
inceptae nec continuari nec [illegible]
[illegible] naturalis [illegible]
docet Covarruvias [illegible]
lib. 2 c [illegible] 16 nº 49 [illegible] qui-
dem interruptio est quando possessio
non accedit [illegible]
civilis interruptionem inducat [illegible]
[illegible] possessori [illegible]
introducitur [illegible]
[illegible] vel per citationem vel interpel-
lationem sive iudicialem sive extra-
iudicialem [illegible] interruptionis

[illegible]

[illegible]

... per solutionem usurarum, Sexto per secundam cautionem factam o debito re, Septimo per denunciationem factam coram, Octavo per sinodalem proclamationem si sacerdos generaliter in sinodo dicat quod a luy sacerdos vel seculari tenetur [illegible] de quibus omnibus [illegible] adducendo utroque [illegible] verbo prescriptio ... n° 12 [illegible] doctores ad quos se remittit [illegible] n° 33 ... n° 2 ... 15 ... 4° [illegible] quaedam interruptio quaero [illegible] est et ad quem judicem

97 attendum est quando sit interruptio per litis contestationem in omnibus actionibus personalibus et per eam magis [illegible] perficiatur.—

In [illegible] proposito illud primo

98 [illegible] litis contestationem de [illegible] coram judice proprio et competenti habente [illegible] causae cognitionem legitimam [illegible] praescriptionis [illegible]

[illegible]

... litis contestationem de [illegible] ... praescriptionem non [illegible] nullum impedimentum [illegible] ... [illegible] ... 4° ... et 15 ...

Unde [illegible] interruptione litis contestatione

81 impediri possessionem [illegible] interruptione [illegible] non solum possessioni [illegible] possessionis sed etiam proprietati [illegible] de dominio [illegible] ... [illegible] ... [illegible] praescriptioni [illegible] possessione [illegible] ... interrupta possessione [illegible] proprietatis [illegible] nulla praescriptio dari potest sine possessione [illegible] ... [illegible] proprietati [illegible] possessione [illegible] ... [illegible] possessione [illegible] ad [illegible].—

Hoc [illegible]

67 [illegible] ... interruptio [illegible] ... in possessionibus [illegible]

[illegible]

... sed ... [illegible] ... contra principal[illegible] ... pro[illegible] ... interrupta ... contra principalem non ... fide possesse ... non noceat ... [illegible] ... Joannes ... [illegible]

... interruptionem ... [illegible] ... proprietate ... interrupta ... praescriptionem ... et ... possessor ... Et quae ... praescriptiones interruptio in possessione non nocet proprietati ... contra ... pro ... [illegible] ... propter quod ... debet esse praedium de ... quod in ... [illegible] ... probatur ... [illegible]

Ergo quod ... [illegible] ... confessionem ... [illegible] ... ad ... praescriptione in ... [illegible] ... et competentia ... [illegible] ... interrupta praescriptio ... [illegible] ... [illegible] ... quod ... [illegible]

... [illegible] ... que ... [illegible] ... contra ... [illegible] ... que ... [illegible] ... por ... [illegible] ... por causa del Rey ... por esto ... de ... [illegible] ... que ... [illegible] ... contra ... [illegible] ... quod ... [illegible] ... ut ... [illegible] ... leg. 33 ... [illegible] ... per quem ... [illegible] ... l. 29 ... [illegible] ... [illegible] ... 10 ... 21 ... [illegible]

Ad ... [illegible] praescriptio in ... videlicet ... [illegible] ... vel ... [illegible] ... l. 29 ... [illegible] ... que ... [illegible]

[illegible]

Dubitamus in d[icta] l. ... quod ... tempore quo currit praescriptio ... aliqua causa interruptionis ... cessaverit ... interruptio ... per ... praescriptio, ... interruptionis cessaverit quia ... continuari praescriptio ... interruptio ... quod ... tempus praescriptionis et licet ... post interruptionem ... esse tempus quadraginta annorum ... sententia quod ... tempus necessarium ad praescribendum non ... interruptione hoc est tempus ... praescripte

[illegible]

... plene non ad quem ... quam ... nullo modo ... ad quem ... praescriptione ... interruptio ... perfecta ... solutionibus ... glos. 4a ad finem ... parte 30.

Infertur ex hoc praxi ... in ... ad quem ... frequenter ... per chirographum probatum contra quod praescriptio incepta est ... creditor vero illum ... in judicio ... recognitionem ... videmus ... contenta in ... l. gayus ... 39 ... de pignoratitia actione ... negasset esse ... quod ... chirographo ... praescriptionem debitum ... recognoscere chirographum et praescriptione completa ... recognitio ... debitum praescriptum ... praescriptionis ... ad ... completam praescriptio ... nullo interruptio ... completam praescriptionem quam ...

Libres.

[illegible]

V [illegible]

[illegible]

72 [illegible]

74 [illegible]

[illegible]

cap. 14

[illegible] 1214 n. 8 [illegible]

81 [illegible]

82 [illegible]

[illegible]

[illegible] de requirit [illegible]

[illegible] contractus [illegible]

[illegible] tamen hec [illegible]

[illegible] 3o [illegible] in [illegible]

[illegible] 8o no 55 [illegible]

[illegible] probationibus 3o tomo

[illegible] 1219 no 41 [illegible] in con

[illegible] 1o [illegible] 9 no [illegible] 26

[illegible] in praxi [illegible] 2o [illegible]

[illegible] precipue [illegible] decla

[illegible] hanc conclusionem [illegible]

quem habere [illegible] vel [illegible]

[illegible] quando [illegible]

[illegible] aliquod [illegible] vel [illegible]

[illegible] l. 3 [illegible] vel [illegible]

[illegible] communis [illegible] quod [illegible]

[illegible] l. [illegible] et inde [illegible] illud

intelligitur quod [illegible] et [illegible]

[illegible] in [illegible] et inde [illegible]

[illegible] pro [illegible]

[illegible] et [illegible] procedit [illegible]

[illegible] Apostolo ad Romanos [illegible]

quoniam omne quod non est ex fide pe

ccatum est ut [illegible] de

prescriptionibus [illegible] verbum [illegible]

[illegible] inde [illegible]

[illegible] vel [illegible] fidem [illegible]

[illegible] conscientia

[illegible] bona fide contrahit [illegible]

[illegible] facere nullam [illegible]

in corde [illegible] nec [illegible]

bonam fidem habere [illegible]

[illegible] illud

credit quam quod est [illegible]

fidem habere l. [illegible] 4 [illegible]

contra [illegible] fi

dem 4a [illegible] et [illegible]

hec [illegible] et [illegible]

[illegible] sine dolo [illegible] ad [illegible]

[illegible]

[illegible] dubitans [illegible]

[illegible]

[illegible] dubitans [illegible]

[illegible] fidem nec [illegible]

[illegible] quo [illegible]

[illegible] esse [illegible]

[illegible] dubitare [illegible]

[illegible] cum [illegible]

melior quam aliena et inde [illegible]

[illegible] contra alienum [illegible]

[illegible] aliquo [illegible] et [illegible]

[illegible] partem [illegible]

[illegible] quam [illegible]

[illegible] post quam [illegible]

[illegible] prescribere [illegible]

[illegible] dubitatio [illegible] non

[illegible] bonam fidem [illegible]

in principio contractus [illegible]

[illegible] quam [illegible]

doctores [illegible] dubitationem [illegible]

[illegible] fidem introducit [illegible]

prescriptionem [illegible] quidem est [illegible]

[illegible] dubitationem [illegible]

[illegible] bonam fidem [illegible] introduci [illegible]

[illegible] 3a [illegible]

[illegible] in hec verba [illegible]

[illegible] quam [illegible]

[illegible] alienum [illegible]

[illegible] prescriptionis [illegible]

[illegible] inde [illegible] prescr[illegible]

nullo [illegible] parte [illegible] habeat [illegible]

[illegible] alienam [illegible]

verba [illegible] veram [illegible]

malam fidem [illegible]

[illegible] debet esse [illegible]

[illegible] prescriptionem et inde

[illegible] quod [illegible]

[illegible] dubitatio [illegible]

[illegible] introductionem et

[illegible]

[illegible] quaerendum [illegible] ... communem [illegible] ... commentator [illegible] ... 57 [illegible]

Secundo [illegible] contra [illegible] ... 57 [illegible] possessio [illegible] ... praescribendum [illegible] ... 58 [illegible]

[illegible] ... 57 [illegible] in proposito [illegible] ... procedere [illegible] ... successore [illegible] ... perfectum [illegible]

Quarto [illegible] ... constitutum [illegible] ... procedat [illegible]

e[illegible]

[illegible]

Sed et [illegible] ... c. 23 nº 37 ...

[illegible]

Dixi ... [illegible]

90 [illegible]

[illegible]

[illegible] sententiam [illegible] omnes [illegible] debent quod [illegible] non est hoc ad alios [illegible] [illegible] verba [illegible] non [illegible] bonam fidem cum quis [illegible] [illegible] rem esse [illegible] vel non [illegible] alienam et [illegible] bonam fidem [illegible] nam [illegible] resolutio procedit quoties [illegible] illam [illegible] causa in rei veritate falsa [illegible] dolo ex figmento [illegible] bonam [illegible] sed [illegible] [illegible] quoties [illegible] possessorem [illegible] [illegible]

[illegible] fidem cum quis [illegible] modo non probavit [illegible] bonam fidem [illegible] —

O. [illegible] praescriptionem [illegible] bonae fidei [illegible]

92 [illegible] triginta vel quadraginta annorum [illegible] de praescript. triginta vel quadraginta annorum [illegible] sententiam [illegible] communem [illegible] 3 et 4 [illegible] 225 n. 2 et [illegible] hoc procedere [illegible] praescriptione [illegible] 1566 [illegible] q. 96 n. 4 [illegible] bonam fidem [illegible]

93 [illegible] bona fide [illegible] praescribere [illegible] bonam fidem [illegible]

[illegible]

[illegible] alegando docet glos. [illegible] proscriptionem per praedictam [illegible] docet glos. verbo [illegible] in l. superlitigii [illegible] praescriptione glos. verb. [illegible] in l. penultima C. de acquisitionibus [illegible] allegationibus [illegible] probationibus [illegible] 1214 nº 43 [illegible] 224 nº 2 [illegible] procedere [illegible] nullum titulum habeat sufficeret quidem praescribentis per triginta vel quadraginta annos [illegible] probe [illegible] mala fides. —

Decimo notabis praescribentem non [illegible] ad probandam bonam fidem non [illegible] alegando [illegible] quia [illegible] de praescriptione [illegible] possedit rem per triginta vel quadraginta annos [illegible] necessario alegare [illegible] praescriptionem [illegible] cum bona fide [illegible] concludit [illegible] a [illegible] praescribentibus et [illegible] alegatione debere esse [illegible] ne [illegible] [illegible] Franciscus de praescriptionibus § 1. glos. 2ª nº 7. et [illegible] Alexandrum cons. 57 nº 5 vol. 7 et cons. 177 nº 12 vol. 6 Crabetta cons. 158 nº [illegible] 1º tom. [illegible] 224 nº [illegible] et 370 [illegible] 1214 nº 48 [illegible]

[illegible] praesumitur, [illegible] quod [illegible] praesumatur ignorantia et [illegible] 97 praesumitur [illegible] probare [illegible] probationibus [illegible] ignorantia [illegible] debebat [illegible] intelligenda [illegible] [illegible] in l. cum de indebito [illegible] [illegible] praesumitur [illegible] alegetur [illegible] procedat [illegible] alegatio [illegible] mala [illegible] praescriptione [illegible] possessore [illegible] quod possidens sit dominus [illegible] docet glos. verbo [illegible] in l. cum [illegible] 12 [illegible] de probationibus [illegible] praesumptionem dominium [illegible] dominus [illegible] [illegible] olim dominus [illegible] hodie dominus praesumatur [illegible] procedat [illegible] alegatio procedat [illegible] in possessione [illegible] olim [illegible]

[illegible]

... non est per iudicem ... [illegible] ... debet allega... [illegible] ... ver. praescriptione § 81. gloss. 2 n. 19 ... [illegible] ... non probatio ... [illegible] ... habere bonam fidem ... [illegible] ... alleganti ... [illegible] ... 1219 n. 51 —

Videamus ... [illegible]

... et quodquam ... [illegible] ... praescriptione ... [illegible] ... bona fides ... [illegible] ... Vigliar. 5 ... de praescriptione ... [illegible] ... 1219 n. 45. 46. et 54 et 55 ... [illegible]

Nec contra ... [illegible] ... ad finem de praescriptionibus ... [illegible] ... gloss. verbo ... [illegible]

Dubitatur ... [illegible]

[illegible]

... in lib. ... causa, praescriptio ...
... est ... quaestio ...
... habentes ... praesumitur ...
... [illegible] ...
... dicun...
... 12 14 nu. 13 et doctores sequentibus.

Decimo tertio notabis, habeatur ... in praescriptione ... ad ... efficacia ... quod licet secundum ... ... procedat praescriptio ... inchoata cum bona fide ... ... bona fide in ... ... praescriptio ... ... quod ... de praescriptione ... vel quadraginta annorum ad hoc requiritur bona fides ... ... requiratur non solum in principio possessionis vel praescriptionis sed etiam toto ... durante praescriptione ... ... mala fide ... praescriptio quam ... ... praescriptionem maxime ... de ... [illegible] ... 103 ... ... nullo modo ... ad ... praescriptio ... ... quaestio ... ... Quod ... ... procedat in praescriptione ...

... ... praescriptio ... ... nullo modo praescriptio procedat per mille annos ... mala fide ... ... praescriptionem ... ... in praxi ... ... nu. ... sequentibus ... ...

Decimo quarto notabis, quod ... praescriptio ... ... bona fide ... ... mala fide ... ... praescriptionem ... ... bona fide ... ... praescriptio ... ... [illegible]

[illegible]

... non praescriptionem [illegible] completam —

Secundo facit [illegible] quod introductae praescriptiones vel [illegible] introductae [illegible] ob favorem publicum ne [illegible] semper incerta essent rerum dominia [illegible] [illegible] praescriptione [illegible] in [illegible] est praescriptio ut [illegible] impera [illegible] approbatio sed [illegible] publicum est ob favorem publicum etiam publicandi verum dominium de [illegible] stabilire [illegible] de bonum commune praeferri bono particulari ut [illegible] [illegible] capite proximo supra nº 52 [illegible] publicum praescriptio [illegible] introducta [illegible] ut transferat dominium [illegible] est [illegible] clausula super [illegible] quidquam sit contra bonum commune ob bonum particulare [illegible] praescribens praescriptione completa [illegible] [illegible] quidquam [illegible] tenetur. —

Tertio facit [illegible] praescriptionis [illegible] authoritate legislatoris [illegible] canonica [illegible] praescriptione completa [illegible] [illegible] authoritate [illegible]

[illegible] quod [illegible] dominium [illegible] [illegible] 33 nº 70 [illegible] 1º nº 24 et 25 [illegible] sententiam [illegible] 3ª pars 2ª nº 1 [illegible] 3 [illegible] praescriptione completa non [illegible] [illegible] de praescriptione [illegible] 74 nº 1 [illegible] communis contra [illegible] 729 nº 20 [illegible] [illegible] 1º [illegible] de praescriptione d. 66 2º c. 6 [illegible] 17 nº 50 et [illegible] plures [illegible] communem [illegible] [illegible] 54 [illegible] nº 10 [illegible] [illegible] nº 55 ad finem —

Contraria quidem sententia [illegible] fundamentis [illegible] quam [illegible] praescriptione completa [illegible] [illegible] praescriptione [illegible] [illegible] authoritas [illegible] [illegible] propositio [illegible] generalis [illegible] de praescriptione [illegible] authoritas [illegible]

[illegible]

[illegible]

Tertio facit [illegible] in mala fide [illegible] praescriptione completa [illegible] [illegible] quae in mala fide [illegible] in [illegible] praescriptionis vel post [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] mala fide [illegible] [illegible] in mala fide [illegible] praescriptionem [illegible] [illegible] [illegible] [illegible]

Quarto facit [illegible] [illegible] [illegible] [illegible] mala fide [illegible] possessionem [illegible] [illegible] [illegible] [illegible] praescriptionem [illegible] [illegible] [illegible]

[illegible]

In hoc [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Ego vero ultra praedictam distinctionem [illegible] [illegible] distinctionem [illegible] differentia inter [illegible]

104 [illegible] [illegible] [illegible] [illegible] post praescriptionem completam [illegible] [illegible] in foro [illegible] in quo [illegible] [illegible] [illegible] [illegible] praescriptionem [illegible] procedent in foro [illegible] [illegible] praescriptio [illegible] [illegible]

DII
ZO,

[illegible] necessario quod [illegible]
[illegible] praescriptionem [illegible]
[illegible] restitutionem [illegible]
[illegible] doctores [illegible]
[illegible] non solum in foro [illegible]
[illegible] praescribere [illegible]
[illegible] in foro interiori et conscientiae
[illegible] peccare [illegible]
[illegible] pertinentes [illegible] fidem [illegible]
[illegible] cum [illegible] fide praescriptionem
[illegible] differentiam [illegible] inter utrumque
differentiam non quamvis [illegible]
[illegible] praescriptionem completam iam
fide etiam [illegible] mala fide
[illegible] in foro animae procedat secun-
dum [illegible] canonicam [illegible] in foro [illegible]
[illegible] non [illegible] ad restitutionem [illegible]
[illegible] causa [illegible] ratione in
animae [illegible] non [illegible]
[illegible] vel
secundum mentem legislatoris [illegible] quod
lex [illegible] ad praxim [illegible] legislatoris
mentem non ad [illegible] in nostro
proposito lex praescriptionis [illegible]
[illegible] cum mala fide [illegible]
[illegible] praescriptionem completam [illegible] civili
[illegible] foro admittenda non quidem [illegible]
[illegible] conscientiae [illegible]
[illegible] secundum mentem [illegible]
quia non vult Deus quod cum mala fi-
de [illegible] aliquid [illegible]
in [illegible] restitutionis quod [illegible]
est [illegible] in foro
animae [illegible] non est [illegible]
nec [illegible] quam [illegible]
[illegible] videbis [illegible]
[illegible]
[illegible] superiori [illegible] utrumque [illegible]
[illegible]

Decimo [illegible] praescriptione [illegible] bona
fide [illegible] tempore praescriptionis [illegible]
[illegible] mala fide [illegible] est pro

106

[illegible]
[illegible]
[illegible]
[illegible]
[illegible] praescriptionis [illegible]
[illegible] praescriptionem
et necessarium [illegible]
[illegible] habere [illegible]
praescriptionem [illegible]
[illegible]
[illegible] praescriptionem
[illegible]
[illegible]
[illegible] praescriptione [illegible]
[illegible] quod [illegible]
[illegible]
[illegible]
[illegible] 2 c 10 n 9

Decimo [illegible] quomo-
do [illegible] habere
malam vel bonam fidem [illegible]
[illegible] procedat vel non procedat [illegible] quod

107

[illegible] bonam vel malam
fidem probari [illegible]
[illegible] bonam vel ma-
lam fidem [illegible]
[illegible] 224 n 27
et [illegible] 226 [illegible]
et [illegible]
arbitrium [illegible]
[illegible] quan-
do [illegible] mala vel
bona fide [illegible] habeant [illegible]
quod procedit in foro interiori [illegible]
[illegible] quod [illegible]
in foro [illegible] mala
fide [illegible] probandum est [illegible]
[illegible] contra [illegible] canonum vel
legem [illegible] vel
vel [illegible]
[illegible]
[illegible]
[illegible] vel [illegible] secundum [illegible]

[illegible]

[illegible] ... praescriptione ... [illegible]

[illegible] ... praescriptionem cum peccato in foro interiori ... Confessarius admittendum esse ... [illegible] ... et praescriptio ... nullo modo in eo foro admittatur ... de praescriptione ... [illegible] ... verbo praescriptio ... [illegible]

CAP. 6.

1. Salarium operariis omni ... [illegible] et humano est solvendum.
2. Salarium generaliter omnibus mercenariis et laboratoribus debetur.
3. Salarium non debetur ei qui non fuerat operarius necessarius sed gratis ... [illegible] laboravit.
4. Salarium ancillis famulis laborantibus debetur.

[illegible]

18 [illegible] non debet [illegible]

[illegible] Velancico [illegible]

[illegible] ad § 10 et 15 [illegible]

[illegible] remuneracionis [illegible]

[illegible] habeat salarium

[illegible]

[illegible] salarium [illegible]

[illegible] dominum –

21 Salarium non [illegible]

[illegible] debet solui –

22 [illegible] attendendus est.

23 Salarium [illegible] attendatur ad [illegible] iudicantis

24 Salarium quod olim erat [illegible] intelligitur cum eo [illegible] salario

25 Salarium [illegible] duo [illegible] quod debeatur [illegible] salario [illegible]

26 In [illegible] famulus [illegible] salarium habere –

27 Intellectus ad l. [illegible] 12 [illegible]

28 Intellectus ad [illegible] 48 [illegible]

29 Dominus [illegible] salarium [illegible] famulo debet soluere –

30 Intellectus ad l. que [illegible]

31 Famulus [illegible] salarium a domino [illegible] et quando [illegible] –

32 Famulus [illegible] non potest [illegible] salarium [illegible] –

33 Salarium [illegible] dominus vel famulus mortuus est

34 Dominus [illegible] famulus potest et famulus [illegible]

[illegible]

46 [illegible] domino [illegible] probat

46 Sententia salarij [illegible]

47 Ad [illegible]

~~[illegible]~~

~~[illegible]~~

48 Sententia salarij [illegible]

49 Sententia salarij [illegible] quem [illegible] causa depositi

50 Salarij causa [illegible]

51 Salarium [illegible] habeat [illegible] in solutione [illegible]

52 Salarium [illegible] famulus [illegible] domini [illegible] auctoritate [illegible] –

53 Famulus [illegible] ad [illegible] per [illegible]

54 Famulus damnum [illegible] domino [illegible] –

55 Damnum [illegible] a domino [illegible] famulus [illegible]

56 Famulus [illegible] prestitit.

57 Salarium [illegible] famulo [illegible]

58 [illegible] in [illegible]

59 Famulus [illegible] a domino [illegible]

60 [illegible] famulo [illegible] domini [illegible] –

61 Salarium [illegible] famulo [illegible] debeatur

62 [illegible] salarij [illegible]

63 [illegible]

[illegible]

CAP. 9. DE SALARIJS FAMULORUM.

M[illegible] salariorum in praxi quotidiana [illegible] salarium [illegible] famulorum [illegible]. Primum quidem [illegible] salarium famulorum [illegible] domino [illegible] [illegible]

[illegible] etiam verba imperativa [illegible] nro. 113 [illegible] et hoc voluerunt [illegible] salarium [illegible] auctoritate [illegible] [illegible] q. 141 nro. 5.

... ad finem ...
... salarium ...
... de ...
... 1566 ... recopilat. ...
... [illegible] ...
... y ... que ...
... intelligatur
... generaliter ad ...
... gracia ...
... [illegible] ...
... mandamos que ...
... vicarios
... y otros officiales ...
... y a los ...
... personas que tienen ...
de ... [illegible]
... in ... 9 no 5 ad finem ...
... proxime d. art. 3 glos. 7a
no 2 ... generalitatem
... [illegible] ...
... debent ...
... salarium seu laborem ...
et solvendum esse dicemus ...
... [illegible] ... velut
intelligas ... non ut famulus nec
ut operarius vel mercenarius opera...
... [illegible] ...
... [illegible] ...
persona ... [illegible]
... vel ... [illegible]
... [illegible] ...
nec ... de ...
... videtur sine salario velle
... nec ... nec
... [illegible] ...
... [illegible] ...
... vel ... [illegible]
... maxime non precedente con...
... in 9 no 5 ad finem
no 46

... generale ...
... [illegible] ...
... [illegible] ...
... in l. 1 ff. de ... 40
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... ff. de testamentaria ...
... 45 in prin. ...
... [illegible] ...
... in prin. ff. de legat. 3
... [illegible] ...
... [illegible] ...
... [illegible] ...
... no 117 ...
... [illegible] ...
... [illegible] ...
... consequenter ...
... [illegible] ...
... no 10 ... [illegible]
... ff. de ... omnium judicum ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... no 18 ... [illegible]
... [illegible] ...
... [illegible] ...
... [illegible] ...
... salarium ... [illegible]
... [illegible] ...
... [illegible] ...
... [illegible] ...
... glos. ... [illegible]
nec —

Mattia autem ad salarium ... per famulum ... vel ... quod ... non pro

[illegible]

[illegible] quod [illegible]
[illegible]
[illegible] quod in [illegible]
[illegible]
[illegible] nullam quidem [illegible]
[illegible] huiusmodi [illegible]
[illegible]
[illegible] quidem obligabit non [illegible]
[illegible] vero [illegible]
[illegible]
[illegible] in corpore [illegible]
[illegible]
[illegible] ad legem [illegible]
[illegible]
[illegible]
[illegible]
quam [illegible] obsequio [illegible]
et [illegible] non solum [illegible]
[illegible] quia est [illegible]
et [illegible] salarium non [illegible]
[illegible] ad solvendum [illegible]
[illegible] obligabit quam [illegible]
[illegible]
[illegible]
[illegible] ad finem quod [illegible] quia [illegible]
[illegible] et non [illegible]

Salarium quod [illegible]
7 per [illegible] solve-
re tenetur et ad id est [illegible]
dus, [illegible] quod inter partes conven-
tum est et per [illegible] inter eos est
[illegible] quod [illegible] vulgari [illegible]
[illegible] conventiones [illegible]
[illegible] in contractu [illegible]
[illegible] omnino debeat servari.
8 et obligare contrahentes [illegible]
[illegible]
[illegible]

[illegible]

Haec conventio [illegible]
[illegible] est [illegible]
[illegible]
[illegible]
[illegible] contra [illegible]
[illegible]
[illegible] salarium [illegible]
[illegible] vel [illegible]
quod procedit in foro [illegible]
[illegible] non [illegible]
[illegible]
[illegible] in foro interiori et [illegible]
[illegible] non plus vel minus quam [illegible]
[illegible] valet, debet [illegible]
[illegible]
[illegible] famulus vel [illegible]
[illegible] in maiori vel
minori quantitate [illegible] in foro interio-
ri non plus quam [illegible]
vel [illegible] licet et [illegible] in hoc
[illegible] elegantem inter utrumque fo-
rum differentiam [illegible]
et [illegible] de [illegible]
[illegible] 1. [illegible] 2. n. 2. qui licet
[illegible] quando salarium est [illegible]
[illegible] et dicat dominum [illegible]
[illegible] solvere [illegible] salarium [illegible]
[illegible] id etiam procedere [illegible]
[illegible] famulus plus quam [illegible]
salarium [illegible] in conventione
licet in foro exteriori [illegible]
in foro vero conscientiae [illegible]
[illegible] et [illegible]
[illegible] differentia inte-
[illegible]
[illegible] famulo vel [illegible] vel
[illegible] est solvendum salarium
10 ut etiam non [illegible]

[illegible]

... catores procura[illegible]

... [illegible] ...

... consuetum est ...

... [illegible] ... lege

... ff. pro socio l. ...

de [illegible] ...

11 ... restitutionem ...

... omnes incerta

... contractibus ...

... non tenet ...

... 97 l. ... 115 ff.

... obligat. ... l. sola

... 16. C. mandati l. ... 108

... ff. de annuis legatis ...

... quo illa incertitudo reducatur

ad id quod consuetum et solitum

est et ... per arbitrium

... hoc est boni viri et

hoc probandum est in ...

probatione consuetudinis de quantitate

... est ...

ante consuetudine dici non potest

solvere ... nec ...

contrahentes ...

debet contrahentes ... con

... in illa quantitate ...

per relationem ... et illud

sufficit ... non expressa

quantitate salarii quod ...

auctoritate ...

et ...

... non convento salario sol

... in ea quantitate quod

... [illegible] ...

... [illegible] ...

... [illegible] ...

... Florez de mena ...

... n. 1 ...

... 3 ... n. 3 inde ...

12 ... famulis secundum consuetudinem

pro servitio non debetur ...

consuetum est in famulis scola

rium praecipue in Salmantica sol...

pro ... famuli scolares qui

dominis scolasticis serviunt

in ... servitium ...

... percipiunt salarium sed gratis

... serviunt ...

... non

... utroque foro quod quam ...

nec debere ...

in foro exteriori et interiori ...

... proxime et ... Ludovi

co Lopez ... Florez de mena lib.

2. n. 3.

Sequitur etiam inde quod si quis

famulum ... ad serviendum

13 in ... pro salario con

sueto ...

... servitium ... salario

secundum consuetudinem est ...

... dominus tenetur utroque foro

exteriori vel interiori solvere se

cundum quantitatem ...

... ad illud ...

et hoc in omni genere operario

rum sive famulorum ...

... Ludovico Lopez

... Florez de mena ... proxime

... n. 4.

Porro ... quod si

quis non ... conducere famulum vel operarium et

14 ... in domo

... famu

lus vel operarius ... vel

serviat vel laboret vel com

medum

[illegible]

... et Cordova ... [illegible] ... interpretatur ... [illegible] ... ad satisfaciendum gratis ... [illegible] ... vero ... [illegible] ...

16 Vir de ... [illegible] ... quod ... [illegible] ... a domino ... [illegible] ...

17 [illegible] ... quod ... [illegible] ... anno 1499 ... [illegible] ...

18 [illegible] ... domino ... [illegible] ...

confectionem secundum [illegible]
[illegible]
[illegible] et verbis [illegible]
[illegible] magister tenetur [illegible]
officium [illegible] secundum
illo per alium [illegible]
contrahentes [illegible]
[illegible] quidam cum [illegible]
[illegible] et alimentandum et non cum
[illegible] aliis [illegible]
[illegible]
facere [illegible] substrahendo
officio nec eum [illegible] ut
possit discedere ut solent ali[illegible]
magistri male facere et hinc [illegible]
[illegible] possent [illegible] salarium
[illegible] expensas [illegible]
discendo officio apud alium magis-
trum et quod [illegible]
[illegible] restitutionem

20 propter [illegible] vel malos mores magi-
stri [illegible] contractum [illegible]
[illegible] et repetere datum ob causam
[illegible] quod [illegible] quando
magister non adimplebit nec facit
quod [illegible] non dato [illegible]
[illegible] ex parte magistri [illegible]
[illegible] ex parte [illegible]
[illegible] quod [illegible] restitutionem et
salarium [illegible] non obstante
quod magister [illegible] sit [illegible] quod
[illegible] restitutionem
[illegible] magistri non est admitten-
da [illegible] concedendam esse [illegible]
[illegible] magister
[illegible] quod
[illegible]
ni vel secundum [illegible]
est obligatus quia magister non
potest cogere [illegible]
[illegible] secundum [illegible]
[illegible] qualitatem [illegible]

[illegible]
quod [illegible] non [illegible]
[illegible]
[illegible]
quod [illegible]
salarii [illegible] vel [illegible]
[illegible]
[illegible] quod [illegible]
[illegible] officium [illegible]
confectio [illegible] quod [illegible]
[illegible] generali
[illegible] salarium debet [illegible]
[illegible] attendendo ad [illegible]
quod [illegible]
[illegible]
[illegible]
[illegible]
[illegible] officium et hoc [illegible]
[illegible] contractus [illegible]
[illegible] secundum [illegible]
[illegible] proxime [illegible] hec
[illegible] nostro [illegible]

22 [illegible] generaliter [illegible]
[illegible] libris [illegible]
[illegible]
[illegible] 10 [illegible]
[illegible]
[illegible]
[illegible] et in hac
[illegible] nec maior [illegible]
est nec minor [illegible] quia [illegible]
[illegible] et media [illegible]
[illegible]
[illegible] lib. 2 c. 24 n. 23
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] salarium quod pro
[illegible] salariis [illegible]
[illegible] in salario quod [illegible]

per [illegible]

[illegible]

... vel ... [illegible] ... salarium ... solvend[um] ... confessor ... mercede ... [illegible]

[illegible]

... vel ... ad solvendum ... salarium ... vel ...

[illegible]

Sed quid dicendum quando [illegible]

25 ... salarium ... faciendum vel solvendum ... nominati ... quod ... confessario ... salarium vel ... resolve. quod ... salarium ... nominatim ... quod salarium sit solvendum vel ...

... dicendum quem ... X ...

Hic ... salarium de ...

26 ... quod ... famulo ... infirmo ... pr[o]curando ... solvendum ... sententia ... servum ... domini ... infirmus ... quod consentire ... immediate vel aliis rebus ... ad sanitatem dominus ... commodatum ... sententia ... verbo ... infirmo ... Gregorius ... ut vide ... sententiam ...

[illegible]

[illegible] famulitas infir- [illegible] infirmitatis [illegible] famulum ad serviendum [illegible] idoneum [illegible] quo famulus in- [illegible] receptus fuit [illegible] famulo infirmo et cum [illegible] tempore infir- [illegible] quia [illegible] famulo [illegible] vel impeditio [illegible] substitutum idoneum [illegible] sufficientem [illegible] postquam [illegible] famulo [illegible] tempus infirmitatis [illegible] tempus suppleat quod [illegible] tempore [illegible] salarium famulis ha- [illegible] debere hoc [illegible] tempore infirmitatis quod postea tempore sanitatis [illegible] nec admittitur [illegible] serviendum nec salarium a domino [illegible] quia constat [illegible] famulus ad serviendum fuit a domino receptus et in- [illegible] non completum [illegible] salarium [illegible] sequentibus [illegible] practica [illegible] Flores de

[illegible] 130 [illegible] parte 3 [illegible] in praxi [illegible] facit pro hac sententia [illegible] tempore infirmitatis quo famulus et infirmus debitus [illegible] sententia [illegible] aquello que [illegible] mas [illegible]

Nec advertere [illegible] arboribus 12 [illegible]

Mossile

[illegible]

Nec obstat [illegible] dicere quod operarius [illegible] locavit [illegible] quod operas suas locavit [illegible] temporis [illegible] eodem accepisse [illegible] non stabit. [illegible] si quis [illegible] non stat per eum ad [illegible] quidem [illegible] famula [illegible] quod non impedit [illegible] quin [illegible] salarium [illegible] cum famulus [illegible] conditione [illegible] non [illegible] fuit [illegible] solvenda [illegible]

[illegible]

in casu [illegible] l. si quis domum [illegible] locavit et quoniam [illegible] est in re locata l. sed addes § 21 [illegible] quisquam [illegible] aliis locat.

Alius inde resolvimus [illegible] dominus sine causa [illegible] famulum [illegible] deducere [illegible] praeter

31 dominum [illegible] a suo servitio [illegible] ne famulus [illegible] salarium illius temporis et e contrario si famulus conductus [illegible] a domino [illegible] per annum vel aliud tempus ante [illegible] causa recedat ei sit salarium solvendum ad quod [illegible] et vere dicendum est quod si iste dominus expellat famulum quantum [illegible] et sine culpa ipsius famuli ei debet solvere salarium et si famulus recedat [illegible] sine causa salarium ei non debet solvi [illegible] potest non solum [illegible] sed etiam [illegible] ad [illegible] famulorum [illegible] salarium [illegible] tamen non domino [illegible] quod non [illegible] operas ad quas conductus fuit

[illegible]

... solutum famulo ... [illegible] ... 32 ...

[illegible] ... tempore ... solvendum ... [illegible] ... inter praetationem proxime ... [illegible]

... verba ... pro omni ... solutione ... et si dominus post ... quam famulus sine causa ... a ... domum famuli ... nullum damnum ... famulo solvendum est pro rata ... et hoc ... non ... [illegible] ... quod ... domino ... [illegible] ... famulo ... solutum ... [illegible]

[illegible]

Dicimus quidem dominum ... famulum ... solutum ... [illegible] ... dominus ... famulum ... [illegible] ... famulo ... domino ... [illegible] ... solutum ... [illegible] ... dominus ... famulum ... non ... [illegible] ... solutum ... [illegible] ... solvendum ... [illegible] ... 27 ... [illegible] ... 10 ... [illegible] ... 1709 ... [illegible]

quod [illegible]

[illegible]

[illegible] famulus [illegible] ipse dominus famulum [illegible] [illegible] quod dominus [illegible] famuli [illegible] [illegible]

36

[illegible] vel [illegible] famuli [illegible]

37

[illegible] dominus [illegible] famulum [illegible] [illegible] Antonio Gomez [illegible] variarum [illegible] c. 10 n. 24 [illegible] famulum [illegible] dominum [illegible] Antonius Gomez [illegible] c. 10 n. 24 [illegible] c. 15 n. 32 [illegible]

Ideo praesertim dominus tenetur salarium conventum famulo solvere [illegible] quod si ipse dominus [illegible]

[illegible]
... vel [illegible] ...
... nec [illegible] ...
[illegible]
... quibus quis solam ... quis ...
... debet non negare ...
[illegible]
... ad restitutionem tene...
... generali ... 40
... authoritate
... peccet non tamen tenetur ad
restitutionem quia ...
... nec ... vel ...
... Confess. c 25 n ...
in manual c 17 n 108 Cordub.
in sum. ... Confess. q. 3 et
... Flores de mena l. 2 q
40 ar 2 n 22 Quod ... quando
[illegible]
[illegible]
... perfectio ...
[illegible]
[illegible]
... c 24 n 24 et idem ...
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
38 [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
... 493 ...
[illegible]

[illegible]
... Dominus Antonius ...
40 Variorum 2 tom c 3 n 13 ...
[illegible]
[illegible]
[illegible]
[illegible]
... intelligens ... placuit 4
de solutione ... patrimonii
... l. 6 ... 11 ...
[illegible]
[illegible]
... vices et non minus ...
... aliquando ...
... aliquando ...
nec etiam in nostro ...
... nec ...
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

[illegible]

... [illegible] secundum ...
... [illegible] ...
... [illegible] ...
... [illegible] ... pag. 506. col. 2. ...

... autem ... [illegible] ...
... salarij ... domini ...
... [illegible] ...
... [illegible] ...
secundum ... [illegible] ...
... quod famulus vel
... [illegible] ...
... [illegible] ... vel operar...
... secundum contractum vel
... [illegible] ... vel [illegible] ...
... [illegible] ...
... vel operarium
... [illegible] ... obligatus
... ad salarium solvendum
... [illegible] ... vel ...
... [illegible] ...
... [illegible] ... vel [illegible] ...
secundum ... [illegible] ...
quod ... [illegible] ...
... [illegible] ...
... famulus ... dominus
... [illegible] ... contra
famulum vel operarium ...
... [illegible] ...
... [illegible] ...
... [illegible] ... dominus ...
... [illegible] ...
... [illegible] ...
... verbo ... [illegible] ...
... [illegible] ... lib. 4. q.
52 n. 4.
Sequitur ... quod famulus
vel operarius ... [illegible] ...

... [illegible] ... dominus ...
... [illegible] ...
... [illegible] ... solvere ...
... [illegible] ...
... vel [illegible] ...
... vel ... [illegible] ...
... [illegible] ... vel ...
... non ... [illegible] ...
... quod ... [illegible] ...
... de domino ...
... [illegible] ...
... [illegible] ... secundum
... [illegible] ... vero ...
... nihil dominus ...
... [illegible] ...
... [illegible] ... contra ...
... famulos vel [illegible] ...
... [illegible] ...
... solvere ... [illegible] ...
... [illegible] ... et ... famulus ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... secundum ... [illegible] ...
... [illegible] ... secundum
... [illegible] ... secundum ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... vel [illegible] ... domino
... famulus vel [illegible] ...
... [illegible] ... non
... [illegible] ... domino
... quod famulus ... vel
operarius ... [illegible] ...
... famulus ... [illegible] ...
... [illegible] ...

[illegible]

[illegible]

Notissime [illegible]

57 [illegible]

58 [illegible]

59

[illegible]

... dolus vel fraus ... [illegible]

... [illegible] ... quod ... [illegible]

... In hac controversia ... [illegible]

[illegible]

... Flores de Mena d. q. 80 n. 41 ... et in ... n. 48 ... quod ... per ... ad ... solutam ... et compensatione ... v. Chaillerd [illegible] —

In hac contrarietate ad ... sum propter ... Ursalum ... semper ... Gomes ... [illegible]

[illegible]

... a quibus ...

[illegible]

84 [illegible]

DIF 769 [illegible]

[illegible] nº 14 [illegible]

CAP. 7

1 [illegible]

2 [illegible]

3 [illegible]

4 Iudex delegatus [illegible]

5 Iudex delegatus quando [illegible]

6 Iudices [illegible]

7 [illegible]

[illegible]

24 S [illegible]

25 S [illegible]

26 S [illegible]

27 C [illegible]

28 D [illegible]

29 D [illegible]

30 S [illegible]

31 I [illegible]

32 [illegible]

42 I [illegible]

43 I [illegible]

44 I [illegible]

45 I [illegible]

46 A [illegible]

47 A [illegible]

48 I [illegible]

49 A [illegible]

50 A [illegible]

CAP. 7 DE SALARIJS IVDICVM.

1 [illegible]

2 [illegible]

[illegible]

[illegible] ... quem
[illegible] valde [illegible]
[illegible] tempora [illegible]
[illegible] substitutis ... ille
[illegible]
[illegible] vel [illegible]
[illegible] que
[illegible] ordinarios
[illegible]
hac civitate [illegible]
[illegible] antiqua que ad hanc
[illegible] quacumque [illegible]
[illegible] numerum [illegible]
[illegible]
[illegible]
[illegible] apud quos cura [illegible]
[illegible]
[illegible] vere quia
[illegible] velles
[illegible]
[illegible]
[illegible]
[illegible]
non [illegible]
[illegible]
ad [illegible] communicationem [illegible]
[illegible] quae [illegible]
[illegible] vocabantur [illegible] hodie
quorum principale [illegible]
et hodie est corrigere mala [illegible]
13 in praesidium [illegible]
[illegible] Corregidores [illegible]
[illegible]
[illegible]

[illegible] c. 6 [illegible]
[illegible]
[illegible]
[illegible] confessa [illegible]
[illegible]
[illegible] 15

14 Inde sequitur quod Corre[gidor]
[illegible]
[illegible] quae [illegible] vel [illegible]
[illegible]
[illegible] vel delegatam [illegible]
vel [illegible] nihil [illegible]
[illegible]
[illegible]
[illegible] quae [illegible]
[illegible]
[illegible]
[illegible]
[illegible] vel aliquo aliquorum [illegible]
[illegible] vel inter [illegible] personas
[illegible]
[illegible]
[illegible]
ad officium [illegible]
[illegible] non [illegible]
[illegible]
[illegible]
[illegible] Corregidores
[illegible] non
[illegible]
[illegible]
[illegible] antequam
exerceant officium [illegible]
[illegible] in l. 44 [illegible]
[illegible] hac omnia [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

c. 3

[illegible] ... l. c. 2° n° 10 ... [illegible] ... n° 1° tomo c. 57 n° 21 ... [illegible] ... l. 43 n° 40 —

Posteà vero ... [illegible] ... vel ... [illegible] ... vel ... [illegible]

[illegible] ... quod ... [illegible] ... vel in causa criminali ... [illegible]

[illegible] ... n° 14 ... [illegible]

[illegible]

[illegible] ... d. q. 3. [illegible] 9. — ... vel ... confessarius ... [illegible]

... vel ... [illegible] ... domino vel prelato ... solutum ... d. q. 3. [illegible] n. 7, 17. [illegible]

Ad [illegible] solutum [illegible]

... vel ... [illegible]

9 [illegible] ... d. q. 3. [illegible]

[illegible] ... vel ... [illegible] ... solutum ... n. 10 ... [illegible] ... vel ... [illegible] ... 3 ... 16 ... —

Vo autem [illegible] ... vel prelatus ... vel ... confessarius ... vel ... domini vel prelati ... [illegible]

[illegible] esta et [illegible]
[illegible] sed nullo corbento nec
[illegible] salario nec esse solvere se
[illegible] m consuetudinem non solem
[illegible] communitatis [illegible]
[illegible] domesticum nec prelatorem
[illegible] debendum est salarium pedes
[illegible] nullam salarium esse debere nec
[illegible] posse quia intelligitur contra
[illegible] secundum consuetudinem et a
[illegible] fuisse deceptum pedem [illegible]
[illegible] jurisdictionem quod limita
tur et declaratur nisi pedes fuerit
necesarius et emolumenta pedes habere
non sufficerent ad sustentationem satisfactio
nem laborique [illegible]
[illegible] et consuetudo [illegible] tunc 33
dominus qui eum elegit tenetur sa
larium non conventum nec consuetum
solvere secundum arbitrium boni
viri [illegible]
[illegible]
[illegible] sine salario [illegible]
[illegible]
[illegible]
de vera [illegible]
[illegible]
pedes [illegible]
[illegible]
in aliquo officio vel quia [illegible]
[illegible]
quod simile [illegible] vel inest
casso ad quod [illegible]
dum ut saepe fit in [illegible]
[illegible]
et [illegible]
[illegible]
[illegible] a domines procuratores [illegible]

[illegible] speciales [illegible]
Ad generales [illegible]
[illegible]
et [illegible]
[illegible] non [illegible]
[illegible] contra [illegible]
[illegible] sine salario [illegible]
[illegible] operatores [illegible]
[illegible]
[illegible]
[illegible] vocatum [illegible]
de vera et consequent [illegible]
de [illegible]

Dubitatur etiam an salarium
possit habere pedes infirmus vel
senex ab officio vel [illegible]
[illegible] electus vel nominatus [illegible]
exercendam jurisdictionem [illegible]
[illegible]
[illegible]
vel [illegible]
[illegible]
[illegible] quod pedes infirmus [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
firmus [illegible] est quod [illegible]
[illegible]
infirmitatis et quod [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible] ita factum

Si vero ipsi [illegible]
[illegible] nec [illegible]
judex de ipso vacat off[illegible]
[illegible] Regis sui officiales
[illegible] officium et [illegible] potest ab
[illegible] multo [illegible]
[illegible]
[illegible]
[illegible] Valor [illegible]
nº 12 [illegible]
[illegible] referendo plures
[illegible]
[illegible] Bobadilla in politica lib.
1 c. 9 [illegible] nº 18 cum pluribus se-
quentibus [illegible] referendo
[illegible]
[illegible] c. 9 [illegible]
nº [illegible] cum pluribus sequentibus [illegible]
nº 38 [illegible]
[illegible] legum [illegible] procedat in judi-
cibus [illegible] judices
quos [illegible] voca-
mus [illegible]
[illegible] c. 4 nº 34 [illegible]
[illegible] legis in
[illegible] judicibus domesticorum [illegible]
[illegible] ad illa verba legum [illegible]
[illegible] codice [illegible]
legum recopilatores [illegible]
[illegible] verum [illegible]
[illegible] nº 40 [illegible]
[illegible] judices domesticorum [illegible]
[illegible] leges
Regni [illegible] domini [illegible]
[illegible] Corregidores [illegible]
et a Rege [illegible]
[illegible]

[illegible]
[illegible] judice [illegible]
[illegible] quam sententiam
[illegible] c. 27 nº 21 [illegible]
[illegible]

In judicibus delegatis [illegible]
[illegible] vocamus pesquisidores [illegible]
34 procedunt [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] Bobadilla d. lib.
2 c. 21 nº 243 et 244 [illegible] nº 23[illegible]
plura [illegible]
[illegible] pesquisidorem [illegible]

Illud [illegible] judicibus [illegible]
[illegible]
35 [illegible] c.
[illegible] 7 [illegible] glos. verb. [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] c. 6 [illegible]
[illegible] Bobadilla d. lib.
2 c. 21 nº 240

Circa judicem [illegible]
est quod [illegible]
36 [illegible] procuratorum [illegible]
[illegible] per
l. 32 tit. 16 lib. 2 recopilat. [illegible]
[illegible] Flores [illegible]
[illegible]
[illegible] salariis [illegible]
[illegible] ut in l. 9 tit. 16 lib.
4 recopilat. [illegible]
[illegible] salariis judicum et Corre-

ctorum

[illegible]

[illegible] vel [illegible] [illegible] non solum [illegible] salarium vel [illegible] [illegible] [illegible] salariatum [illegible] judices [illegible] foro [illegible] assessores [illegible] assessorum [illegible]

Sed quid [illegible] quatenus judices [illegible] non fuerint salariati [illegible] vel domino quidquam [illegible] [illegible] assessores [illegible] non possunt a partibus quidquam [illegible] [illegible] num. 41. In judicibus vero [illegible] qui non habent salarium vel [illegible] [illegible] non habentes salarium possunt assessores a partibus [illegible]

35

[illegible] [illegible] quien [illegible] [illegible] salario [illegible] [illegible]

[illegible] salarium [illegible] [illegible] in foro [illegible] [illegible] salarium [illegible] in foro [illegible] assessores [illegible] assessores [illegible] in foro [illegible] [illegible] num. 41 [illegible] salarium [illegible] quod [illegible] assessores [illegible] assessorum [illegible] contra [illegible] [illegible]

[illegible]

[illegible] est hoc com[illegible] [illegible] quest[illegible] de qua [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] assessores [illegible] [illegible] [illegible] pro[illegible] eandem dico [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 10 [illegible] [illegible] prohibitionem [illegible] propinquis

Haec quidem vera [illegible] maxime procedit quando [illegible] [illegible] quod [illegible] salarium [illegible] salarium [illegible] [illegible] assessore [illegible] [illegible] [illegible] [illegible] [illegible] salarium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] verbo [illegible] [illegible] [illegible] [illegible] procedere quando [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] 173 nº 12 et 13 [illegible] [illegible] 178-184 nº 11

CAP. 8.

1 Salarium [illegible] advocato [illegible] [illegible]

2 Advocati salarium [illegible] [illegible] [illegible]

3 Advocatus [illegible] [illegible] [illegible] [illegible] [illegible]

4 N[illegible] [illegible] [illegible] [illegible] [illegible]

5 Advocatus in causa propria [illegible] salarium [illegible] [illegible]

6 Advocatus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

7 Advocati salarium [illegible] [illegible]

8 Advocati salarium [illegible] [illegible] [illegible] [illegible] [illegible]

9 Advocatus salarium [illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible] salarium [illegible]

[illegible]

27 Cum [illegible] salarium [illegible]

28 Domini [illegible] solvere debet [illegible]

29 Executori testamentario an salarium debeatur.

30 Executor testamentarius [illegible] per se [illegible]

31 Debitor [illegible] bona [illegible] causa [illegible] modo procedat.

32 Creditori [illegible] debitoris [illegible] authoritate [illegible] salarium debeatur.

33 Filius [illegible] potest salarium.

34 Filius contra fratres an [illegible] salarium [illegible] quod laboravit in re [illegible]

35 Filius [illegible] bona [illegible] quando [illegible]

36 Salarium [illegible] filius non habet [illegible]

[illegible]

43 [illegible]

44 Filius [illegible]

45 Filius [illegible]

46 Salarium [illegible]

47 Praeses [illegible]

48 Praescriptio non incipit [illegible] obligationes vel solutionis.

49 Filius [illegible] aliquid propria authoritate [illegible]

50 Salarium quod in foro [illegible] est solvendum in foro interiori [illegible]

CAP. 8. DE SALARIIS DIVERSARUM PERSONARUM.

1 Inter alias personas quibus salarium debetur [illegible] advocati [illegible] procuratores [illegible] [illegible] quaestio [illegible] salarium [illegible] proximo capite n. 23 debetur advocato salarium et [illegible] advocato [illegible] et n. 32 quod debeat habere salarium [illegible] salarium quod [illegible] n. 32 et quod [illegible] n. 36

et quod

[illegible]

...tico —

[illegible] ad advocatos illud [illegible]
[illegible] licet salarium [illegible]
[illegible] advocatos et [illegible]
[illegible] ad petitionem [illegible]
[illegible]
[illegible]
[illegible]
[illegible] non obstante [illegible] vel
[illegible] salarium
[illegible] illud non [illegible]
[illegible] quodam
[illegible]
[illegible] de
[illegible] probat [illegible]
[illegible]
[illegible] quod
[illegible] eodem modo non [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] procuratori
[illegible]
[illegible]
[illegible]
[illegible] 130 [illegible]

Secundo illud [illegible] advoca-
tum, procuratorem, sollicitatorem
non posse [illegible] processus [illegible]
[illegible] salarium [illegible]
[illegible]
[illegible]
[illegible] in illa [illegible] vel [illegible]
[illegible] quod [illegible]
[illegible] contra [illegible]
[illegible]

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] quod [illegible]
[illegible]
[illegible] advocatum procuratorem
sollicitatorem posse [illegible]
[illegible]
[illegible]

Notandum quod [illegible]
[illegible]
processus [illegible]
[illegible] 40 [illegible] 90

Tertio illud [illegible]
[illegible] advocato
[illegible]
[illegible] quo
[illegible]
[illegible]
[illegible]
[illegible] salarium [illegible] quod
[illegible]
[illegible]
[illegible]
[illegible] 174 [illegible]
[illegible] 21 [illegible] 16 [illegible]
[illegible] quod
[illegible] 14 [illegible]
[illegible]
[illegible] quod [illegible]
[illegible]
[illegible]
[illegible]
[illegible] 30 [illegible]
[illegible]
[illegible] 99 [illegible]
advocato [illegible]
[illegible]
[illegible] quod in advocato
[illegible]
[illegible] illud

[illegible]

Quarto illud adnotandum [illegible] utile et necessarium [illegible] in republica quod [illegible] [illegible] debet [illegible] [illegible] quod [illegible] debet [illegible] reipublicae [illegible] vel [illegible] [illegible] necessaria [illegible]

7

[illegible]

10

[illegible]

11

[illegible]

[illegible]

... ordine faciendo ... glosa in ... sequentes ... 2 de ... procedere ... Bartolus ... proxime ... [illegible]

Quaeritur salarium ... vel ... ad Regem ... vel ad Consilium ... vel ... de ... quae ... vocantur ... salarium ... [illegible] ... salarium debet ... [illegible]

Procuratores ... salarium ... [illegible]

13 ... [illegible]

... [illegible] ... salarium ... [illegible]

Dubitatur ... depositario vel sequestro ...

14 ... sequestro ... depositarius vel sequestro ... [illegible] ... vel ... [illegible] ... salario ... ut tradit Bobadilla in politica 2 tomo lib. 5 c. 4 nº 32 ... [illegible]

[illegible] salarium [illegible] quod licet [illegible] oeconomus [illegible] charitatem [illegible] vel [illegible] quod [illegible]

26 [illegible] oeconomus [illegible] fructibus beneficiorum [illegible] beneficiatis vel quando [illegible] vel [illegible] beneficium [illegible] salarium datur pro [illegible] et labore [illegible] d. c. 27 nº 50 —

Ex dictis [illegible] quod [illegible] sacerdotes [illegible] vel [illegible]

27 [illegible] salarium pro [illegible]

[illegible] vel [illegible] quod [illegible] salarium [illegible] c. 10 verbo [illegible] nº 32 [illegible] nº 7 [illegible] 25 lib. 5 [illegible] quod [illegible] lib. 5 c. 4 nº 31 —

Executori testamentario [illegible] salarium [illegible]

29 [illegible] salarium [illegible] executorem [illegible] vel [illegible]

[illegible]

[illegible] tutelae [illegible] ad[illegible]
[illegible] ac fructuum [illegible]
[illegible] solemnes in [illegible] velle
[illegible] regale [illegible] propter
[illegible] in l. 4 ... tit. ... lib. 5
[illegible] ibi [illegible] mandado
alguna [illegible] solamente que debe
[illegible] quae licet non
[illegible] in [illegible] adjudicatione
[illegible] authoritas ad [illegible]
[illegible] testamentorum soleat
[illegible] in quo [illegible] prohibitio
l. 31 tit. 5 lib. 8 Ordinament. ubi haec
[illegible] habetur [illegible] ome omne
[illegible] caballero [illegible]
[illegible] testamento y rrobo
[illegible] hasta treinta dias [illegible]
lo que le fuese mandado por el testador
te y si no le fuere mandado [illegible]
ne [illegible] que debe de haber
[illegible] seguimos de caballero
[illegible] que verba [illegible]
[illegible] habeat [illegible]
[illegible] licet non [illegible] leges [illegible]
[illegible] in [illegible] con [illegible]
[illegible] communis
[illegible] Et [illegible]
130 [illegible] quae resolutio [illegible]
[illegible] est [illegible] secundum [illegible]
[illegible] authoritas [illegible]
[illegible] quas
[illegible] authoritas [illegible]
[illegible] debere
[illegible] quando [illegible]
[illegible] et
[illegible] secundum [illegible]
[illegible] de quibus [illegible] lib. 1 c. 12 n. 2.

[illegible]
[illegible] facultatem [illegible]
[illegible] necessaria [illegible]
[illegible]
[illegible] in l. [illegible]
[illegible] sed [illegible]
[illegible] non [illegible]
[illegible] et [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] secundum [illegible]
[illegible] in aquella [illegible] non [illegible]
[illegible] fuisse [illegible]
[illegible] quid quod [illegible]
30 [illegible]
[illegible] solo [illegible]
[illegible]
[illegible] Joannes [illegible]
[illegible] sequitur [illegible] l. 14 [illegible] n. 19
[illegible] 4° [illegible]
[illegible] n. 12 Joannes
[illegible] n. 31 [illegible]
per [illegible] lib. 1 c. 3 [illegible]
[illegible] c. 13 n. 58.

Multoties [illegible] de [illegible]
[illegible]
31 [illegible] solutione authoritate [illegible]
[illegible] post [illegible]
[illegible] solutio
[illegible] propter quod [illegible]
[illegible] in qua [illegible]
[illegible]
[illegible]
[illegible] Primus quando [illegible]
[illegible]
[illegible] ipse creditor [illegible]

[illegible]

[illegible] quae non [illegible]

[illegible] Intricao [illegible]

[illegible]

[illegible] hoc in praxi observari [illegible]

[illegible] tribunalibus [illegible]

[illegible] in omnibus tribunalibus [illegible]

32 [illegible]

[illegible]

[illegible] contra eorum volunta[illegible]

[illegible]

33 [illegible]

[illegible]

[illegible]

... filius [illegible] ...

... adventum [illegible] ...

... filium et ... deducto ...

... n° 12 ... et nullum ... [illegible]

Tertio [illegible] quod ... filia ... in premium ... vel filia ... filio ... [illegible]

40

... et filius vel filia ... [illegible] ... 2ª ... [illegible] ... 1584 ... [illegible]

Tertio [illegible] ...

41

[illegible]

... [illegible] ...

... 10 11 ... [illegible]

Ego vero ... secundum ... [illegible]

... secundum ... et ... [illegible]

43

Hoc ad ... [illegible] ... quod ... [illegible] ... filium ... [illegible]

Neither ... admitto ... [illegible] ... filium ... [illegible] ... quod ... [illegible]

[illegible]

47 [illegible]

48 [illegible]

49 [illegible]

CAP. 9.

1 Heres [illegible]

2 Heres [illegible]

3 Heres [illegible]

4 Heres [illegible]

5 Obligationes [illegible]

6 Heres [illegible]

7 Executor [illegible]

8 Actiones [illegible]

9 Heres [illegible]

10 Ius [illegible]

11 Emptor hereditatis [illegible]

12 Executor testamentarius [illegible]

13 Executor [illegible]

14 Executor [illegible]

15 Executor [illegible]

16 Heres [illegible]

17 Heres [illegible]

18 [illegible]

19 Heres [illegible]

20 Heres [illegible]

[illegible]

37 R[illegible]

38 C[illegible]

39 R[illegible]

40 R[illegible]

41 E[illegible]

42 C[illegible]

43 C[illegible]

44 F[illegible]

54 C[illegible]

55 L[illegible]

56 I[illegible]

57 I[illegible]

58 D[illegible]

59 H[illegible]

60 I[illegible]

61 I[illegible]

62 C[illegible]

63 A[illegible]

64 I[illegible]

65 C[illegible]

66 T[illegible]

67 H[illegible]

68 C[illegible]

69 C[illegible]

[illegible]

A [illegible] ... quando et quo modo [illegible] ... prosequi potest

83 D [illegible] ... quaelibet [illegible] ... [illegible] interesse

89 H [illegible] ... a testatore vel [illegible] ... [illegible] ... quando [illegible]

88 C [illegible] ... in [illegible]

87 H [illegible] ... in [illegible] ... potest

88 C [illegible] generaliter [illegible]

89 H [illegible]

90 O [illegible]

[illegible] ... quod in [illegible] ... [illegible] ... resolvimus [illegible] ... heredes [illegible] ... nullo modo [illegible] ... contra [illegible] ... testatorem [illegible]

3 [illegible] ... contra [illegible] ... [illegible] ... ut resolvimus ... [illegible] non vertitur [illegible] ... resolvimus [illegible] ... contrahitur [illegible]

5 [illegible] mutatione personae [illegible] heredis [illegible] ... [illegible] mutatur [illegible] ... de verbo [illegible] ... de conditione [illegible]

[illegible] ... contra heredem ... [illegible]

Ex quo generaliter [illegible]

8 [illegible] ... contra ... [illegible]

9 [illegible]

11 [illegible]

12 [illegible]

13 [illegible] ... quod defunctus ... [illegible]

[illegible]

[illegible] vero non [illegible] 12 [illegible]

[illegible] 4 et 10 [illegible]

[illegible]

[illegible] 78 [illegible]

[illegible] 4° et 10 [illegible]

[illegible] heredem [illegible]

[illegible] herederos [illegible]

[illegible]

15

[illegible] Antonio gomez [illegible]

[illegible] que [illegible]

[illegible] 4 [illegible]

[illegible] y mandamos que el testamento que en la forma susodicha fuere ordenado valga en quanto a las mandas y otras cosas que en el fueren aunque el testador no aya echo heredero alguno y entonces herede aquel que segun derecho y costumbre de la tierra havia de heredar en caso que el testador no hiziera testamento [illegible] testamento [illegible] parientes mas propinquos que [illegible]

17

[illegible]

[illegible]

19

[illegible]

[illegible]

[illegible] tamen [illegible]
[illegible] fuit [illegible]
[illegible] de [illegible] comprehendum [illegible]
[illegible] est [illegible] enim [illegible]
[illegible] non potuit [illegible]
[illegible] quidem [illegible]
[illegible] sunt et recte [illegible]
[illegible] ad hoc ut [illegible]
[illegible] potest ad [illegible]
[illegible] fuit [illegible]
[illegible] qui potest [illegible]
[illegible] ad [illegible]
[illegible]
[illegible] de [illegible] est
[illegible] pro [illegible]
[illegible] fuit [illegible]
[illegible] de [illegible] potest et [illegible]
[illegible] ita que [illegible]
[illegible] l. [illegible] 108 ff. de
verborum significatione [illegible] eadem [illegible]
[illegible] sententia [illegible]
[illegible] in l. [illegible] 44 ff. de
[illegible] contractu [illegible]
vel contestatoria [illegible]
[illegible] potest contrahere que in [illegible]
testatoris [illegible]
[illegible] per testamentum [illegible]
[illegible] Angelus [illegible]
in [illegible] ad [illegible] ff. de [illegible] 22
[illegible] a [illegible]
[illegible]
[illegible]
[illegible] ff. de
[illegible] de successionum
[illegible] 39 et 42 [illegible]
[illegible]
[illegible] quibus de [illegible]

[illegible] sunt [illegible]
[illegible] testa[illegible]
[illegible] verbo [illegible]
[illegible] in authentica ut [illegible]
[illegible] habere [illegible]
[illegible] plures [illegible]
[illegible] est [illegible] heredes
[illegible] et necessary [illegible] hereditatem
[illegible] hoc [illegible] debere
[illegible]
[illegible] causa [illegible]
[illegible] non [illegible]
[illegible] heres [illegible]
[illegible] commodum [illegible]
[illegible] hereditatis [illegible]
et necessarius [illegible] heres [illegible] ad
[illegible]
[illegible] glosa [illegible] declarat
[illegible] contra [illegible]
[illegible] 57 verbo [illegible]
[illegible] ad [illegible] hereditate [illegible]
[illegible] Antonius
[illegible] 64 n. 5 ad finem [illegible] et
[illegible] fundamenta [illegible]
[illegible] Antonius [illegible]
[illegible] 69 n. 25 [illegible]
[illegible] 4 [illegible] 81 n. 2 et 3 [illegible]
[illegible]
Quo in [illegible] ad [illegible] ad [illegible]
[illegible] voluntatem contrahere
[illegible]
[illegible] hereditatis [illegible]
[illegible] creditorem [illegible]
[illegible] vel [illegible] hereditatem [illegible]
[illegible] successionis [illegible]
[illegible]
[illegible] heres [illegible]
[illegible]
[illegible] contra
[illegible] testatorem [illegible]
[illegible] velle vel
nolle esse heredem [illegible]

[illegible]

[illegible]

Sed quia [illegible]

33 [illegible]

[illegible]

34 [illegible]

[illegible] ... generalem vel ... [illegible] ... hereditatis ... [illegible]

... testatoris ... heredit[illegible] ... per instrumen[tum] ... contra ... [illegible] ... procedere contra ... [illegible] ... in omne ... [illegible] ... procedi ... [illegible] ... et forma ... [illegible] ... secundum ... [illegible] ... heredes ... [illegible] ... personas ... [illegible] ... debitor ... [illegible] ... contra ... [illegible] ... procedi ... [illegible]

[illegible] ... heredem ... [illegible] ... heredes ... [illegible]

Circa ... [illegible]

36 ... heredem ... [illegible] ... possessionem ... testatoris ... [illegible] ... hereditatis ... [illegible] ... 175 n° 283 ... [illegible] ... 105 n° 1 ... [illegible] ... hereditatem ... [illegible] ... heres ... [illegible]

[catchword illegible]

[illegible]

Verum [illegible] quod [illegible] perdominum vel [illegible] per [illegible] [illegible] 93

[illegible] 1. 7. gl. [illegible] nº 4 [illegible] [illegible] eodem modo [illegible] [illegible] conpetit sicut [illegible] [illegible] 48 [illegible] 5 nº 20 [illegible] —

Inter [illegible] quod [illegible] confessore [illegible] [illegible]

[illegible] 1. 7. [illegible] eodem modo [illegible] [illegible] confessore [illegible] [illegible] nº 12 [illegible]

novum [illegible]

... ad ... in l. ... alii ...

... de pedraza ... heres ...

... testatoris ... Cov. ...

... heredem et contra heredem ...

... ad eum testatoris ...

... quod ... mutato ...

... contrahere ...

... testator c. quia ...

... de pedraza ...

... glossa ...

... heres ...

... Barbosa ... proxime nº 10

50 ... testatoris ... quod testator ...

... ad ... testatoris ...

... testatoris ... quod ... prosequi ... agendo ...

... legem ... heres ...

... 34 ... de pedraza ... l. heres abs ...

... nº 95 ... 110 nº 4 ... plures ... nº 8 ... 9 ... 10 ...

102 et 103 ... c. 12 nº 12, 13, 19 et 30 ... c. 29 ...

... de pedraza ... et ... Barbosa proxime ... l. heres ... nº 143 et 144 —

Ex quo ... adiri ... heredem ...

91 ... heredibus ... quod ...

[illegible]

63 [illegible]

[illegible] n. 4. [illegible] Barbos. [illegible] n. 30 et 31. [illegible] n. 32 [illegible]

64 [illegible]

[illegible]

[illegible] ratione interesse [illegible] ... sed ratione interesse [illegible] ... vel [illegible] ... ratione [illegible] ... habere [illegible] ... vel [illegible] ... interesse [illegible] ... quod [illegible] ... principaliter [illegible] ... testator [illegible] ... vel [illegible] ... quibus habere [illegible] ... in [illegible] ... haec omnia [illegible] ... proprio [illegible] ... de [illegible] ... in [illegible] ... vel [illegible] ... vel [illegible] ... 4. nº 82

Nec obstat [illegible] ... in [illegible] ... quod nulla [illegible] ... esse [illegible] ... in nostro [illegible] ... non [illegible] ...

80

81 [illegible] ... quod [illegible] ... quod [illegible] ... non [illegible] ... quod [illegible] ... de [illegible] ... quod [illegible] ...

82 [illegible] ... in [illegible] ... quod [illegible] ... vel [illegible] ...

[illegible]

quaestionis [illegible]

[illegible] in hac [illegible]

[illegible] n. 15 [illegible]

[illegible] Sarmiento [illegible] ... 550 n. 25 [illegible]

Quarto advertendum quod [illegible] resoluta [illegible] personam heredis [illegible] [illegible] quod [illegible] persona heredis et [illegible] [illegible] heres [illegible] obligatus et [illegible] [illegible]

[illegible] primo [illegible]

[illegible] n. 236 [illegible]

[illegible] 30 [illegible]

Quod [illegible] heredem [illegible] [illegible] obligatione [illegible]

[illegible]

41. [illegible]

[illegible] ... in solidum ... [illegible]

[illegible] ... lib. 2 c. 7 n. 16 ... [illegible] ... n. 26 ... plura ... authoritates ... [illegible] ... at in contrarium adduximus plures authoritates lib. 2 ... [illegible] ... lib. 2 c. 7 n. 8 ... [illegible] ... varietate ... [illegible] ... differentiam inter utrumque ... [illegible]

[illegible] ... c. 4 n. ... [illegible] ... authoritates ... [illegible] ... lib. 2 c. 7 ... [illegible]

[illegible] ... quod ... [illegible] ... ut in hoc ... [illegible] ... authoritates ... [illegible]

CAP. 10.

7 V

8 P

9 S

10 A

11 P

12 I

13 C

14 C

15 A

16 O

17 A

18 O

27

28 P

29 A

30 A

31 A

32 A

33 A

34 A

35 T

36 A

37 I

38 A

39 A

40 I

41 A

42 I

43 A

44 A

45 I

46 I

47 C

CAP. 10 DE PROBATIONE ... NECESSARIA

[illegible]

[illegible] probatio [illegible] 139 [illegible]

[illegible] proba[illegible] [illegible]

[illegible] sententia [illegible] probationis [illegible] probata [illegible]

[illegible]

Ut autem hec probatio [illegible]

11 [illegible] quod [illegible] probationes [illegible]

[illegible] quod [illegible] gradum [illegible] non probat gradum [illegible] consequentia [illegible] quod [illegible] gradum et ratione [illegible] probabiles consequentias [illegible] probationibus [illegible] concl. [illegible]

[illegible] probatio in casu et non [illegible] nullo modo [illegible]

12 [illegible] verbo [illegible] probationibus [illegible] producentur [illegible] probatio [illegible] glos. [illegible] nº 4 [illegible] probationibus [illegible] concl. [illegible] nº 42 [illegible] probatio [illegible]

[illegible]

[illegible] Vel [illegible] [illegible] probatur [illegible] causa [illegible] probam [illegible] Vel [illegible] Vel [illegible] probatio [illegible] conclusio in genere [illegible] Gregorius [illegible] [illegible] probationem non [illegible] conclusio [illegible] in forma probata [illegible] [illegible] Mascardus [illegible] conclusione 70 nº 11 Gregorius [illegible] 353. nº 2

Tertio haec probatio non debet esse generalis [illegible] [illegible] Vel [illegible] Mascardus 2º tom. conclusione 585 nº 19 Joannes Garcia de nobilitate glos. 34 nº 1º [illegible] probatio [illegible] non clara [illegible] probatio obscura et non clara [illegible] [illegible] nº 100 et 17 [illegible] [illegible] nº 417 [illegible] [illegible] 2 [illegible] 54 nº 140 [illegible] probationes [illegible] [illegible] deponit contenta in

[illegible] probatio [illegible] [illegible] Caballero [illegible] [illegible] probationem [illegible] generalis [illegible] Vel [illegible] [illegible] Vel [illegible] [illegible] probatur [illegible] Vel [illegible] 30 [illegible]

[illegible]

[illegible] 33 [illegible] 34 [illegible]

[illegible] n.º 10 [illegible]

Secundo [illegible] procedere [illegible] in [illegible] possessorio et [illegible]

[illegible] 136 [illegible] 35 n.º 31 [illegible]

[illegible] procedere non [illegible]

[illegible] lib. 3 c. 13 n.º 20 et 21 [illegible]

[illegible] 4 [illegible] 15 [illegible]

Tertio [illegible] quod [illegible] quaestiones [illegible] introducitur [illegible]

[illegible]

[illegible]

[illegible] 36 nº 49 [illegible]

[illegible]

Quantum vero [illegible]

36 [illegible]

38 [illegible]

[illegible]

[illegible]

[illegible] ... declarare ... [illegible]

[illegible] ... interpretes ... [illegible]

[illegible] ... doctores —

[illegible]

[illegible] ... criminale ... [illegible]

[illegible] quod quam [illegible] ... personas ... [illegible]

[illegible] ... n.º 26 ... [illegible]

[illegible] ... n.º 19 ... [illegible]

[illegible] ... n.º 3 ... [illegible] ... 445 ... [illegible]

[illegible] communem [illegible] ... 54 ... [illegible]

[illegible] ... communem ... [illegible] ... probat ... [illegible]

[illegible] ... 34 n.º ... [illegible]

42 [illegible] ... crimen ... [illegible]

[illegible] ... 59 ... 61 ... [illegible]

[illegible] ... 465 ... [illegible]

[illegible] ... probationes ... [illegible]

[illegible] ... [illegible] ... communem ... [illegible] ... 54 n.º 3 ... [illegible]

[illegible] ... 19 ... [illegible]

[illegible] ... 34 n.º 1 —

[illegible]

45 [illegible]

[illegible]

46 [illegible] ... criminalis ... [illegible]

[illegible] ... authores ... [illegible]

[illegible] ... criminali ... [illegible]

[illegible] ... criminalis ... [illegible]

[illegible] ... crimine ... procedendum ... [illegible]

[illegible] ... authores ... [illegible]

[illegible]

[illegible]

96

[illegible]

98

[illegible]

Illud probat [illegible]

99

[illegible]

[illegible]

[illegible]

... Joan Antonius Gomez ... [illegible] ... del Villar [illegible] ... n° 50 —

Quarto [illegible] ... [illegible]

... [illegible] ... del Villar [illegible] ... n° 36 [illegible] —

70 Quinta [illegible] ... alias probationes [illegible] ... [illegible] ... 1066 ... [illegible] ... haec verba [illegible] ... processo [illegible]

[illegible]

71 [illegible] ... probationes [illegible] ... del Villar [illegible] ... n° 43 —

72 [illegible] ... probationes [illegible] ... [illegible]

[illegible]

[illegible] ecclesiastico [illegible] 260 [illegible] vetgata [illegible]

[illegible] 72 cum [illegible] sequentibus —

N[illegible] adverte in predicto [illegible] declarat [illegible] quod [illegible] secundum [illegible] generales [illegible]

[illegible]

[illegible] quod [illegible] per [illegible] corporalis [illegible]

[illegible] quod [illegible] vers. 9 [illegible] n° 37 ad finem quod [illegible] homines [illegible]

[illegible] mediante [illegible]

[illegible]

[illegible]

7 C [illegible]
8 C [illegible]
9 T [illegible]
10 I [illegible]
11 E [illegible]
12 I [illegible]
13 E [illegible]
14 O [illegible]
15 B [illegible]
16 T [illegible]
17 T [illegible]
18 E [illegible]
19 T [illegible]
20 A [illegible]
21 C [illegible]
22 V [illegible]
23 I [illegible]
24 O [illegible]
25 H [illegible]
26 H [illegible]

43 A [illegible]
44 A [illegible]
45 P [illegible]
46 S [illegible]
47 O [illegible]
48 A [illegible]
49 L [illegible]
50 S [illegible]
51 H [illegible]
52 H [illegible]
53 F [illegible]
54 H [illegible]
55 P [illegible]
56 I [illegible]
57 I [illegible]
58 D [illegible]
59 T [illegible]
60 T [illegible]
61 R [illegible]

70 I [illegible]
71 V [illegible]
72 T [illegible]
73 I [illegible]
74 D [illegible]
75 D [illegible]
76 T [illegible]
77 T [illegible]
78 T [illegible]
79 T [illegible]
80 T [illegible]
81 Clerici [illegible]
82 S [illegible]
83 C [illegible]
84 C [illegible]
85 C [illegible]
86 C [illegible]
87 C [illegible]
88 E [illegible]
89 C [illegible]

[illegible]

CAP. II DE TRIBVTIS

[illegible]

[illegible]

... pignoratori ... [illegible]

... quia ... [illegible]

... dominium ... ad quod ... [illegible]

... possessor rei ... non ... [illegible]

10 ... tempore ... [illegible]

... possessor ... vel ... [illegible]

... Antonius ... in decisione ... [illegible]

... quaestionem ... [illegible]

... onera realia ... possessor ... [illegible]

... in personas ... [illegible]

Verde modernior ... [illegible]

11 ... obligatus ... [illegible]

... quod pro ... reali ... [illegible]

... ad onera ... [illegible]

... personam ... [illegible]

... non debeat ... onere ... [illegible]

... obligata ... et inde non debet ... obstante ... [illegible]

Nec etiam obstat ... l. 47 ... [illegible]

12 ... possessores ... [illegible]

... procedit quoad ... non est ... vel onere rei imposito ... [illegible]

... l. 10 ... l. 78 ... [illegible]

... d. l. ... resolvit ... [illegible] ... supra d. q. 9 n. 52.

Verum autem ... [illegible]

13 ... onere ... [illegible]

... possessor ... [illegible]

[illegible]

[illegible]

... propter quem cum [illegible] ... [illegible] ... procedere [illegible] ... [illegible] ... possessorem [illegible] ... [illegible] ... emphyteuticis [illegible] ... [illegible] ...

Quod [illegible] quod ... possessorem [illegible] ... communi [illegible] ... [illegible] ... quaestionem quod [illegible] ... quidem [illegible] ...

[illegible] ... posse recurrere contra heredes [illegible] ... procedit posse contra [illegible] ... possessorem [illegible] ... quod [illegible] ... quod heredes [illegible] ... possessorem [illegible] ... heredes [illegible] ... [illegible] ...

[illegible]

[illegible] ... Ista quod [illegible] ... debe[illegible] ... dominus [illegible] ... successoribus [illegible] ... absolut[illegible] ... beneficio [illegible] ... successorem [illegible] ... antecessoris [illegible] ... ratione [illegible]

A[illegible] ... rationae [illegible] ... personae [illegible] (16) ... vocabat[illegible] ... quartas [illegible] ... integrum [illegible] ... mulieres [illegible] medium et utrique [illegible] ... persona solvebat [illegible] ... Matthaei c. 17 ad medium [illegible] ... tributo [illegible] ... haec verba [illegible] ... personale [illegible] ... tributum [illegible] ... solvebatur [illegible] ... Christo [illegible] ... quod [illegible] ... solvebatur [illegible] ... Caesari [illegible] ... de tributo personali [illegible]

[illegible] ... nobis [illegible] ... quod [illegible] ... ratione [illegible] (17) debent solvi per dominum [illegible] ... possessorem [illegible] ... reale [illegible] ... personale [illegible] ... solvendum [illegible] ... reale solventibus [illegible] ... personalibus [illegible] ... antecessoris non est solvendum per successorem [illegible] ... quod non est [illegible] ... reale sed personale nec possessor obligatus est [illegible] ... personalibus [illegible] ... realibus [illegible] (18) ... quod [illegible] ... doctores [illegible] ... proxime [illegible] ... solvendum [illegible]

[illegible]

[illegible]

... facultatem [illegible] conponet [illegible] ... maxime ... [illegible]

... de uno amplectatur vel ... amplectatur ... ad con[illegible] ... ad longum tempus ... [illegible] ... eligendo —

[illegible] ... 33 ... [illegible] ... quod ... quod domini [illegible] ... et ... [illegible] vel ... [illegible] ... ergo [illegible] ... solvere debet et [illegible] ... ad dominium proprie[ta]tis vel domini, non respondendum est quod [illegible] ... ratione bono[rum] ... et ... compulsandum est in ratione et non attendendo ad ... tanquam ... quod ... quod onera et ... solvantur per dominum minorem ... quod ... maior [illegible] ... vel curatori debent in computatione ad ... quae forte erat ... regionis et ad dominium [illegible] ... solutio [illegible] ... probatur quasi ... minorem rei dominium non solum ... tamen ... ad onera [illegible] ... solvit ... [illegible] ... solutione ... [illegible]

[illegible] ... et ... quod ... persona ... [illegible] ... solutione ... [illegible] ... et ... quod ... vel ... et dominus in ... liberatus ... ad solutionem [illegible] ... primus que onus ... vel ... in persona obligata ... vel ... [illegible] ... ad solutionem ... vel ... et ... obligatio personalis sed realis ... personalis et accessoria ... vel ... principali obligatione ... personalis ... vel ad ... et obligat ... personalis non ... quam accessoria ... principalis ... quam ... personalis ... et ... quod ... solutione ... obligatio personalis ... quod ... solutione ... ad ... qui obligatus ... maiori ...

vel pro

[illegible]

[illegible] non [illegible] ... [illegible] debito l. [illegible] ... [illegible] confirmabus [illegible] ... vel [illegible] ... [illegible] datis in [illegible] quod ... [illegible] hoc [illegible] quia [illegible] ... [illegible] contrarie [illegible] ... [illegible] census vel [illegible] principalis [illegible] ... [illegible] obligatio [illegible] ... [illegible] emphiteusim [illegible] ... [illegible] emphiteutico [illegible] hec verba [illegible] ... [illegible] que per emphiteusim [illegible] ... [illegible] hoc non emphiteutico ... cui nichil [illegible] ... [illegible] domino qui quod [illegible] ... [illegible] l. 2ª cum glos. 1ª [illegible] ... [illegible] de annonis et [illegible] ... [illegible] de censibus [illegible] ... 36. § fin. ff. de legatis 1. [illegible] ... l. 2 et [illegible] ubi hec verba: Decimos que si la cosa que es [illegible] ... el censo se pierde toda por [illegible] ... como por se [illegible] ... quedando [illegible] ... por otra razon [illegible]

[illegible]

[illegible] ... per [illegible] vel [illegible] ... [illegible] procedente in [illegible] ... [illegible] l. 2 [illegible] ... [illegible] fol. 16. nº 2 [illegible] ... [illegible] et [illegible] ... [illegible] et sequentibus quod [illegible] ... [illegible]

[illegible] ... [illegible] 15 [illegible] ... quod [illegible] resolutio est vera [illegible] ... [illegible] et [illegible] ... [illegible] census [illegible] ... contra [illegible] ... [illegible] translata [illegible] ... principalem obligationem [illegible] ... pro censu [illegible] ... [illegible] ad [illegible] ... [illegible] contra [illegible] ... [illegible] vel [illegible] ... [illegible] emphiteutico [illegible] 32 nº 14 [illegible] ... [illegible] nº 14 ad finem [illegible] ... [illegible] et ad solutionem [illegible] ... [illegible]

[illegible] ... pensiones solutione ... quidem est quod ... temporal vel ... solutio ... personis ... fructus ... beneficiorum ... [illegible]

... [illegible] ... quod ... personis ... solutionem ... pro ea parte quae ... personis ... solutio quod ... [illegible]

Succedit ... [illegible] ... quod ... contra ... de hac materia ... pensionis beneficiorum ... fructus ... beneficiatus ... ad solutionem personis ... quod per hoc est ... beneficij ... beneficij possessor ... solutione personis ... quidem in solutione legata alimentorum ... [illegible]

28

... [illegible] ... legato ... fructus ... beneficij ... [illegible]

30

... [illegible] ... de verbis ... in secundo ... causa de mortuarios ... in causa de mortuarios ... fructus ... legat ... fructus ... Castro ... vol. ... personis ... quod ... beneficij ... causa de mortuarios ... fructus beneficij ... quod ... beneficij ... pro solutione ... beneficiorum ... fructus quod ... [illegible]

faunt

[illegible]

Redeundo ad nostram tributum ... illud procedit ... resolvo quod tributa ... secundum ... [illegible] ... realia ... personalia ... [illegible] et mixta ... [illegible] realia que imponuntur ratione rei sunt tributa personalia quae ratione personae ... [illegible] mixta quae a tributa ... [illegible] ... obligata et ... vocantur. Et ut colligitur ... [illegible] ... Bart. ... [illegible] ... n. 26 ... [illegible] ... n. 4 ... [illegible]

32 [illegible]

[illegible] ... et secundum ... [illegible] ... non ... [illegible] ... sed secundum vulgarem significationem quam ... [illegible]

34 ... census ... in ... bonis ... [illegible] ... non est proprie tributum sed onus vel munus ... [illegible] ... personalem realem personalem vel mixtum ... [illegible] ... ut sequentibus ... [illegible] ... de censibus ... n. 12 ... census solutionem ... [illegible]

35 [illegible]

[illegible]

... quod notabile est ... [illegible]

37 [illegible]

... quod intelige secundum doctores ... [illegible]

... resolvimus n° 10 et seq. ... [illegible]

Prima pars ... est quod ... [illegible]

38 [illegible]

[illegible]

[illegible]

... [illegible] ... et vendentur et [illegible] ...
... [illegible] ... luego [illegible] ...
... ocho millones [illegible] ... por ciento [illegible] ... a ... alcavalas y medio ... de vino ... carneros ... pescados ... [illegible] ... generis quorum ... ut in memoriam ... et similes ... Xa, ... ex quod vehuntur ... mercium ... gabelle ... hoc ... este ... que ... leyes ... el quaderno de los millones ... tributum ... ve ... [illegible]

Almoxarifazgo tributum et vectigal est simile predicto ... tributum

43 quod solvitur ... mercibus mercatoribus vel generaliter omnibus rebus que ... regno ... trahuntur ... regno ... vehuntur ... generaliter ... Regno ... nostri Regni ... leg. ... recopilat. ... pro eorum valore ... debent ... ad ... valoris et pro ... almoxarifazgo ... reinos ... l. 6 ... Regno ... Sevilla, Cartagena y Murcia ... 1523.

44 ... Segun ... et ... los Reynos de ... solvitur et ... a ... et ... sobre los ... de ... que todos los mercaderes que llevasen mercaderias del Reyno ... paguen el portazgo ... que ... por ... el portazgo ... aquellos ... que ... portazgo ... el portazgo ... todo lo que ... recopilat. ... Regni ... lib. 6 ... Regno ... Regno ... portazgo ... Regni ... l. tit. 11 lib. 6 Recopilats

[illegible]

[illegible]

Portagium seu pedagium est debitum quod solvitur pro mercibus quae transportantur vel aliquo loco [illegible] ... solum pedagium seu portagium [illegible] ... [illegible]

Ser[illegible] y portazgo et talis tributum [illegible] ... quod solvitur [illegible] ... [illegible]

46 ... [illegible] ... recopilationis [illegible]

[illegible] ... el rediezmo que [illegible] ... [illegible] ... quod ... [illegible] ... contributio.

Gabela tributum istorum est quod Hispani vocant alcabala 48 quidem gabela dicitur a quibusdam [illegible] nobilium vel innobilium quae venduntur vel permutantur publice vel privatim [illegible] ... tributum [illegible] ... l. 1. [illegible] ... recopilationis legis primae verba haec sunt: manda el rey que los vendedores paguen el alcabala de ellos de la manera que [illegible] por razon dello de cada diez maravedis uno de todo el precio por que vendieren, et l. 2. verba sunt: porque los trueques y las ventas se deben juzgar por una misma cosa mandamos que de todos los trueques que se hicieren de unas cosas a otras semejantes o no semejantes, que uno de cada diez maravedis de todo se pague la alcabala al nuestro arrendador [illegible] ... [illegible]

[illegible]

... ut continetur in l. 45 et 46 tit. ... lib. 6 recopilat. ... [illegible]

33 [illegible]

Salis ... [illegible]

90 [illegible]

[illegible]

Sal ...

[illegible]

[illegible]

... [illegible] quod [illegible] est [illegible] quod [illegible] quod non habeo [illegible] non [illegible]

Sed [illegible] est [illegible] ex [illegible] Nalcalabornore [illegible] ordinario y extraordinario [illegible] est ut concedatur per procuratores [illegible] hoc est procuradores de Cortes [illegible] quod concedatur in Comitiis ubi vocari [illegible] procuratores [illegible] quaecumque [illegible] Regni [illegible] et [illegible] ut expresse [illegible] l. 6 [illegible] et [illegible] procuratores [illegible] ad [illegible] Regni [illegible]

[illegible]

Primo [illegible] circa hoc [illegible] hoc est servicium [illegible] concessit [illegible] quentos de maravedis que primo [illegible] ordinario et [illegible] per [illegible] annos in quolibet anno [illegible] quentos de maravedis [illegible] et ultra [illegible] quentos [illegible] in quolibet anno [illegible] et fuit [illegible] causa ut [illegible] et hoc [illegible] vocabitur extraordinarium et [illegible] servicium ordinarium et extraordinarium quod [illegible] declarat Palermo [illegible] tomo 3° [illegible] n° 4 [illegible] quod [illegible] quolibet anno [illegible] todos [illegible]

[illegible]

[illegible]

... argenti quantitas ... soluenda in locco ... quemo solueratur ... per ... in ... pronuntiabatur publicis solutionibus vel ... in ... argentum et ... hoc ... postea ... perpetuatum ... ordinario ... et propterea ... indictionem ... quod ... modum soluendi quod solui ... per ... indictiones annos numerabant ... ante aduentum Christi et Romani per plures annos per indictiones vocabant. Hodie vero Christiani a natiuitate Domini annos numerant ... colliges ... in rubrice de indictione ... glos. ... imperatores ... verbo indictionis glos. verbo indictione ... verbo septime indictionis in prima ... Codicis de Codi ... confirmando tradit resolutiue ... de nobilit. ... Salas ... d. ...

Hodie vero sunt ... nostris varia genera tributorum introducta adeo ut eorum nomina comprehendi non possent cum sub diuersis ... ratione ... vel ... quam ... potestate ... hoc ... quod ...

[margin] 58

[illegible]

[margin] 59

... de regno ... diuersis nominibus ... quae ... in ... non possunt ... expresse ... tributa ... de ... prologo ... glossam ... de ... Salas ... proxime ... finem.

Tributo omnia ... et similia ... non ... olim solum imponi poterant per generalem imperatorem vel principem ... certam potestatem ... ut ... in ... leg. ... non ... imponi non posse ... que de ... de ellos ... tributos ... aquella ... que ... emperadores ... in ... authoritate imperatoris

[margin] 60

[illegible]

... Castellae ... Reges ... tributa ... [illegible]

62 [illegible] ... tributum ... [illegible]

63 [illegible] ... principes ... [illegible]

... 37 n° 2 — Sed ad versus hanc resolutionem ... [illegible]

64 [illegible] ... Dominus noster ... tributum ... Petro ... Caesari ... [illegible]

... Caesare

[illegible]

Vnde sequitur quod hec omnia [illegible] supra relata [illegible]

[illegible]

Ex quo fonte venit quod [illegible]

66

[illegible]

at vero quantum [illegible]

[illegible]

Adeo secundo vera est dicta conclusio ... procedat etiam si rex vel ... per se ad implendum ... propter quod tributum ... ossum ... melliones hodie ... tributa ... sub ... de ... contra ... Regni corone ... in ... et in ... et tamen ... obstante ... proprie ... de alguna parte ... sub ... colore ... pro labore et ... in ... de rebus ad Regnum ... nec ... fraudare ... nec illud negare et ad restitutionem in conscientie foro teneri ... quod ... gabela ... contrahere ... per ... Princeps vero ... restitutionem ... quod ... fraudata ... ut ... tomo 3 ... 667 ...

68

Adeo tercio vera est dicta conclusio ut procedat etiam si rex vel ... tributum ... non ... quod in ... ut ... verdadum ... quo genere tributi ... conducere per ... per ... non ... ad ... conductorum ... 96 97 et 107 et 109 ... de los alcabalas ... 13 14 ... 19 ... gabele ... manifestaciones ... pena contra ... manifestadores ...

69

... 9 ... consequentibus ... colori ... tributi ... 61

Adeo quarto vera est dicta conclusio ut solum procedat in foro conscientie ... fraudans ... tributa ... sub obligatione restituendi vel ... pena imposita contra fraudantes per d. l. 31 tt 19 lib 9 recopilat. solum procedant in foro exteriori ... quod ... fraudator ... ad ... in foro ... foro exteriori fraudantes tributa ... per leges ... fraudantes gabelas ... gabele ... d. l. 31 tt 19 lib 9 recopilat. ... et notissime quod hodie ... fraudes ... de los ... Los alcabalas ... tributum quod vocatur millones ... que ... a los ... de que ... de millones del año de ... y ... millones que ... desde primero de agosto del año de mill y seyscientos y treinta ... primero de henero ... et in ... leges ... per ... fraudantes dicta tributa que solum procedant in foro exteriori. at in foro interiori ... con

70

Cercles

[illegible]

... nobilitate ... [illegible]
Covarruvias ... medina de ...
... tom ... 674 n° 3
... de alcavalas c 18 n° 339 ...

10 — Ex quo refertur Joanem de medina de restit. q. 15 ad finem ... Ubi proxime d. 8 ... quos sequitur Joanes Gutierrez de gabelis q. 3ª n° 15 docet quod ... non est injustum vectigal imponere portoribus vel vehentibus ... sed solum per alcavala est imposita ... quae ... de uno regno ad aliud portat, ut nostris temporibus est prohibitum portare merces ... regno ... propter ... in quam ... prohibitum ... tamen in conscientia foro nihilominus restituere ... peccatum committit ... propter ... effectum ... mercibus ... portantes ... vel ... defraudetur.

Adeo quod vera est superior resolutio ut licet probabilis opinio ... aequalis ... consentanea

72 ... merces ... probationes ... in conscientia tributum ... videatur ut non debeat ... in conscientia ... probatissimi auctores ... quos refert Joanes Gutierrez infra ... respectu talis personae solum tributum videatur esse ... forma ... tamen ... merces ... portantes de loco ad locum pro sua commoditate vel necessitate ... solvere in conscientia sub restitutionis ...

... [illegible] ...

... obligatione ... quam ... sine aliqua ratione probante ... mediante principis ... propter eam probabilitatem ... dubitabilem rationem habeat ... tributum ... esse ... in quantitate tributi ... provincia ... fundamenta ... Lessius de ... c 33 dub. ... n° 45 ... dub. ... n° 63 a n° 64 ... quentibus Joanes Gutierrez de gabelis q. 2ª n° 29 —

Hac quidem sententia et resolutio tot ampliationibus corroborata aliquos habuit limitatores. Prima ...

73 ... contrarium ... solvant gabellam ... gabelario vel questore ... quaqua ... generaliter ... solvendi in conscientia obligatio ... gabelarii —

Secunda ... gabelarios non ... ut omnes solvant gabellam ... tributum ... secundum formam ... in l. 120 ... 31 ... 19 ... de ... forma que procedit secundum legem ... gabellae ... solvere non erit ... tributi ... esse gabela tributum ... liberatur a solutione gabellae ... habet ... conscientiae foro semper ... —

Tertia ... gabelario ... liberationem ...

[illegible]

... quatenus tributum [illegible]
[illegible] necessariam ad petendam
[illegible] per ipsum dictis
[illegible] fiat ut in conscientia debitor tributi
[illegible] non possit [illegible] —

Quinto [illegible] limitatio procedit quando gabela
vel quodvis tributum fuit [illegible] vendi-
tionem vel portationem mercium [illegible]
et de hoc casu [illegible] debitor tributi tunc
in conscientia tenetur statim solvere
[illegible] necessariis petitum —

Sexto [illegible] quando [illegible] ut per mensas
[illegible] in l. 19 et 20 tit. 17 lib. 9 recopilat.
ad petendam gabelam seu tributum et
debitor mortuus [illegible] tunc ejus heredes [illegible]
[illegible] tributum esse solutum [illegible] non habe-
[illegible] in contrarium tenetur
debitor [illegible] in conscientiae foro —

Septima [illegible] quando quantitas tributi
fuerit per [illegible] in conscientia propter
[illegible] non adest [illegible]
[illegible] fraudem
[illegible] tributi ut [illegible] quantitate [illegible]
[illegible] conscientia [illegible]
[illegible] semper fraudens et tributum
solvere omnino tenetur et in conscien-
tia non peccat [illegible]
[illegible] —

Octava [illegible] quod cum venditor seu por-
tator mercium debeat denunciare
[illegible] gabelae [illegible] venditionem seu
portationem [illegible]
ad solvendam gabelam [illegible] tributum [illegible]
[illegible] obligatio fuit imposita ven-
ditori non debere [illegible]
quia in conscientia non obligatur ad so-
lutionem cum prius habet venditor ad
[illegible]
[illegible] non est
quam limitationem [illegible] non
esse videtur quia [illegible] venditori est
imposita obligatio [illegible] ven-
ditionem vel merces [illegible]
[illegible] est imposita et [illegible]
[illegible] venditoribus [illegible] solvere tenetur

[illegible]
quod [illegible] del [illegible]
[illegible]
[illegible] de gabelis [illegible] 30
quod [illegible] 47 quia [illegible]
[illegible]
non [illegible] in
in [illegible] dicemus —

Ex quibus [illegible] in [illegible]
[illegible] per legem Regni quae est l. 18 tit.
74 19 lib. 9 recopilat. fuit imposita [illegible]
[illegible] venditoribus vel portantibus mer-
ces ut intra quinque dies [illegible]
[illegible] gabelarijs et [illegible] poena
[illegible] hoc procedit
[illegible] fuerint [illegible] probent [illegible]
[illegible]
[illegible] hoc proce-
dat in foro exteriori [illegible]
[illegible]
esse at in foro interiori et conscientiae
[illegible]
non debere [illegible] veritate [illegible]
[illegible] in foro conscientiae [illegible]
[illegible] venditor vel portans
merces [illegible] gabelam [illegible]
gabelarijs vel [illegible] tributum non
possit [illegible] in conscientia debitor
tributi est [illegible]
[illegible] de gabelis d. q. 3 n. 40

[illegible] in proposito [illegible] differen-
tia est videlicet quod cum ad [illegible] peten-
dam gabelam [illegible]
79 [illegible] contra debitorem [illegible] in
l. 19 et 20 tit. 17 lib. 9 recopilat. hoc
solum procedat in foro exteriori in quo
[illegible] debitor [illegible] tenetur solvere gabelam vel tri-
butum at in foro interiori conscientiae
[illegible] post illud tempus debitor gabelae
vel tributi tenetur solvere et in eo
foro non liberatur [illegible]
[illegible]
[illegible] gabelarum debitor tenetur in consci-
entia [illegible]
[illegible] debitorem tributi esse [illegible]
[illegible]

DIF 282

DIF 283

solvere

[illegible]

76 [illegible]

[illegible] causa justa propter publicam [illegible] Rex et vassalorum [illegible] est bellum justum contra Regem [illegible] pro necessitatibus [illegible] defendendum [illegible] [illegible] [illegible] causa tributum [illegible] [illegible] solvere [illegible] causa Rex vel princeps [illegible] peccat mortaliter [illegible] tributa [illegible] [illegible] [illegible] omnes [illegible] [illegible] [illegible] [illegible] d. c. 33 de [illegible] n. 41 [illegible] 3 tom. [illegible] 66 [illegible]

Dicta justa causa [illegible] tributum [illegible]

77 quod vassalli [illegible] contra Regem bellum [illegible] [illegible] Regem [illegible] contra Regem nostrum et suum bellum introduxerunt [illegible] [illegible]

[illegible] quod [illegible] [illegible] 3 tom. [illegible] d. c. 33 de [illegible] n. 49

Item justa causa ad [illegible] [illegible] principis [illegible]

78 [illegible] pro honore [illegible] [illegible] Regis [illegible] [illegible] Vasquez in [illegible] [illegible] [illegible] n. 15

Cum ergo mediante justa causa tributa [illegible] necessaria [illegible]

79 necessario [illegible] quod tributa non possunt [illegible] causa [illegible] principis [illegible] tributum [illegible] princeps [illegible] [illegible] causa [illegible] tributum [illegible]

[illegible]

... durat causa [illegible] quae fuit concessum [illegible] concessore [illegible] provincia [illegible] in hoc est provincia [illegible] multum debeat attendere ad causam assistentem de novam tributi concessionem quia [illegible] si [illegible] causa concedat novum tributum ut resolvit [illegible] molina d. disp. 667 n. 1 Covarruvias [illegible] lib. 1 c. 33 [illegible] n. 3 [illegible] quod si causa est [illegible] semper duratura vel quod semper durare potest quia tributum concessum est semper [illegible] principe [illegible] solvi licet aliquo tempore causa cesset quia princeps semper [illegible] ut [illegible] tributum concedatur pro [illegible] vel [illegible] causa quae semper perdurat [illegible] quod [illegible] concedatur pro aliqua necessitate transitoria [illegible] habet causam [illegible] debet cessare tributum et in hoc debet [illegible] causa tributum [illegible] perpetuum et semper solvendum.

Requisita autem ut [illegible] tributum sit aliqui [illegible] ut tradunt doctores in [illegible] quod primo requiritur quod tributum sit impositum mediante justa et rationabili causa propter necessitatem Regni communem et publicam utilitatem generalem redundantem [illegible] Regni et Regis [illegible] causam [illegible] supra n. 1176 qualis sit justa causa [illegible] ad tributum —

80

[illegible]

Tertio requiritur [illegible] que [illegible] principem [illegible] tributum nec [illegible] nec [illegible] clericos quia [illegible] principes imponentes [illegible] dicemus —

Quarto requiritur quod tributum sit [illegible] forma quae [illegible] quod tributum non [illegible] causam necessitatis [illegible] tributum [illegible] necessitatem [illegible] solvi [illegible] solvat [illegible] sic quae [illegible] non [illegible] debet [illegible] solvat secundum [illegible] tributum [illegible] solvi [illegible] communitates [illegible] lib. 6 de verbis [illegible] de medina de rest. q. 13 [illegible] Salorzano [illegible] lib. 1 p. c. [illegible] molina de just. [illegible] disp. 666 [illegible] Covarruvias [illegible] lib. 1 c. 33 [illegible] n. 4 [illegible] principes [illegible] tributum [illegible] secundum principum necessitatem [illegible]

Salcedo

[illegible]

[illegible] scilicet [illegible] clericalem [illegible] secularibus quia filii Dei [illegible] Ecclesia vel ecclesiastici non fuerunt [illegible] de statu clerici [illegible] ad quos attenderunt leges [illegible] doctores divinos et humanos [illegible] authoritatibus divinis et humanis [illegible] propter quam [illegible] saecularis agnoscit David Saulem [illegible] Regem [illegible] noluit etiam [illegible] sacerdotibus [illegible] ordinationibus canonum [illegible] Joseph [illegible] sacerdotibus [illegible] praesentem diem in universa terra [illegible] sacerdotalis [illegible] Esdrae 1 c. 7 ubi [illegible] Artaxerxes Regem [illegible] sacerdotibus et levitis et cantoribus et janitoribus [illegible] ministris domus Dei huius [illegible] vectigal et tributum [illegible] sacerdotibus [illegible] Secundum [illegible] Secundum Joannem Gutierrez in sua [illegible]

[illegible] praeferri [illegible] 1 c [illegible] 22 8 quam [illegible] 23 [illegible] 23 q 8 [illegible] 40 [illegible] 16 q 1 [illegible] 22 [illegible] 11 [illegible] 3 [illegible] quam nostri [illegible] aliis doctoribus [illegible] lib 4 c 8 n 75 [illegible] sacerdotes [illegible] omnes plures authoritates [illegible] fundamenta [illegible] ordinationibus [illegible] Joannes [illegible] 2 [illegible] 670 [illegible] lib 2 c 33 [illegible] 3 et 4 [illegible] n 18 et pluribus sequentibus [illegible] lib 19 [illegible] pluribus sequentibus [illegible] 87 [illegible] plures [illegible]

Contra [illegible] Videant quidem quod [illegible] omnes imperatores [illegible] Reges.

[illegible]

[illegible] quo [illegible]
[illegible] nego potestati ecclesiae
[illegible] resistere vel [illegible]
[illegible] sacerdotum illa tempora quo
[illegible] postea successerunt Constan-
tino imperatori Christiano primi [illegible]
rum in [illegible] originem [illegible] sa-
cerdotes erant principibus seu laici-
bus. Ad quod attendendo Christus dominus
noster pro vitando scandalo tributum
solvit pro se et Petro in [illegible]
[illegible] libro du-
[illegible] Matthei c. 17 de qua meminimus
[illegible] supra [illegible]
illa de libra autoritas [illegible]
volunt a pretendente Christum dominum
nostrum et [illegible] dare [illegible]
[illegible] potestatem ad versus
[illegible]
[illegible] autoritas [illegible]
[illegible] potestatem ad [illegible] sacerdotes
[illegible] contra [illegible]
[illegible] sacerdotem [illegible]
[illegible]
[illegible] causa
[illegible] Pauli [illegible] appelavit ad im-
peratorem et [illegible]
[illegible] Apostolorum [illegible]
[illegible] Paulum [illegible]
[illegible] morte [illegible]
[illegible] nihil [illegible]
[illegible]
[illegible] Caesarem [illegible]
[illegible] appellatio ad Caesarem [illegible]
[illegible] autoritas [illegible] Pauli ad Ro-
manos c. 13 [illegible] anima
[illegible] potestatibus sublimioribus sub-
dita sit [illegible]
[illegible] Chrysostomi [illegible]
[illegible]
[illegible] potestates [illegible] principes
[illegible] quibus omnes debemus
obedire et [illegible] omnes [illegible]
[illegible] quam [illegible]
[illegible] sacerdotali [illegible]

[illegible]

[illegible] 27 [illegible]
[illegible] imperator non [illegible]
[illegible]
[illegible]
[illegible] Pauli [illegible]
[illegible]
[illegible] tributum [illegible]
[illegible] tributum [illegible]
[illegible] Petro [illegible]
[illegible]
[illegible] tributum [illegible]
[illegible] sacerdotes [illegible]
[illegible] sacerdotum [illegible]
[illegible] imperatoribus et
regibus [illegible]
[illegible]
[illegible] Gonçalez de Salcedo [illegible] 10 [illegible]
[illegible] 61 [illegible]
[illegible]
[illegible]
[illegible] Gonçalez de Salcedo de lege politica
l. 6 1 c. 7 [illegible] et [illegible] Ceballos
de cognitione per viam violentiae in
prologo n. 97 [illegible]
[illegible] Salgado de [illegible] pro-
tectione [illegible]
[illegible]
[illegible] libro c. 4 [illegible]
[illegible]
[illegible] tributorum solutionem [illegible]
[illegible] principem [illegible]
[illegible]
[illegible] contra omnia [illegible]
[illegible] Procedes [illegible]
[illegible] resolutione [illegible]
[illegible] quodlibet [illegible]
et lege canonica [illegible]

83 approbata [illegible] clerici
et sacerdotes [illegible] a tributo-
rum solutione [illegible]
[illegible]
[illegible] sacerdotes [illegible] imperatorum [illegible]
[illegible]
[illegible] 22 [illegible]
[illegible] tributum [illegible]

pro [illegible]

[illegible]

[illegible] necessitas [illegible] ... ex ... legem [illegible] licet non [illegible] necessitate [illegible] omnibus [illegible] lib 1° c 7 n° 11 [illegible] ... publica [illegible] communia [illegible] vel sacerdotes [illegible] licet ipsi sol... possunt et [illegible] propter [illegible] generaliter ac [illegible] vel ecclesiasticae personae [illegible] sacerdotes non debent [illegible] non tamen possunt donate [illegible] et supra proxime [illegible] quod licet sacerdotes [illegible] personae nullo [illegible] tamen Principes possunt [illegible] necessitatem. Et non [illegible] et sacerdotes ad id [illegible] pro publicis necessitatibus communibus [illegible] respublica [illegible] quod ad [illegible] quando [illegible] communem [illegible] tributum [illegible] supra n° [illegible] pro publico [illegible] necessitate [illegible] quod [illegible] clerici [illegible] non debent [illegible] ad finem —

Ex qua doctrina interpretatur [illegible] in l od [illegible] communiter omnes doctores [illegible] l. de sacros. eccles. [illegible] l 4 c de [illegible] lib 10 quibus dicitur quod clerici sacerdotes vel ecclesiasticae personae debent contribuere [illegible] sicut caminos y calçadas [illegible] puertes y fuentes [illegible] de [illegible]

[illegible] lo [illegible] por [illegible] Cordub. [illegible] l 15 tt° 17 parte 2a [illegible] Castellanorum [illegible] sine exceptione [illegible] l 54 tt° 6 parte 1a [illegible] et in forma [illegible] contribucion clerigos [illegible] et 12 tt° 3 lib 1° recopilationis [illegible] ha pecher los pechos que son [illegible] comun de todos assi como para repararo de muro o de calçada o de carrera o de puente o de fuente o de [illegible] de [illegible] para velar y guardar [illegible] entiende [illegible] que [illegible] a los [illegible] de [illegible] deben contribuir y a [illegible] por [illegible] comun [illegible] de todos [illegible] [illegible] pro [illegible] bonis [illegible] dl 12 sequuntur [illegible] doctores [illegible] vulgati quam nostri regni [illegible] in l [illegible] lib 1 [illegible] col 17 glos. verbo que son [illegible] tt° 4° lib 4° glos. verbo [illegible] declarat [illegible] verb. [illegible] n° 4 [illegible] de nobilitate 2a p. c 1° n° 13 et 14 et sequen [illegible] Petrus Gregorius [illegible] lib 2 c 28 n° [illegible] lib 3 c 8 n° 3 [illegible] Gabriel [illegible] in l ult [illegible] lib 1 recopilatis plures [illegible] glos. [illegible] Covarr. [illegible] c 33 [illegible] n° [illegible] lib 3° [illegible] et quae [illegible] n° 1 et [illegible] practicarum quaestionum lib 1° q 23 n° 3 et [illegible] 99 n° 2 [illegible] communiter canonistarum [illegible] lib 2 l c 32 [illegible] Covarr. [illegible] Bobadilla in politica lib 2 c 18 n° 104 [illegible]

[illegible] ... quo ... de ... [illegible]
... [illegible] ... ut ... [illegible] ...
... [illegible] ... necesse ...
... [illegible] ... nº 17 et 4 ... [illegible]

Nec admittendum debet opinio eorum ... praedicta ipsa scilicet l. hoc ... et omnes auctores ... praedicte procedere scilicet ... [illegible] ... contra ... nullam ... esse ut ... communem ... [illegible] ... l. c. 33 nº 25 ... et late ... de ... in ... de beneficiis 2 p. c. 3 nº 11 et sequen ... verum est quod hec ... procedat et locum habet hodie ... ad ... reparationem ... pontem et similia ... ratione publicae necessitatis et commoditatis et quia ... est ... et ... conservationem ... ad ... quam reges habent in quo ... et in ... sacerdotes non solvunt ... tributa auctoritate legum ... de quibus ... sed auctoritate legum canonicarum et ... de immunitate ecclesiarum ... confirmatur ... necessitatem et ... sententiam resolvit Joannes Gutierrez de gabelis q. 92 nº 41 et 42.

Nec ... hoc ... ecclesia non esse ... ad hoc ... non ... contribuere ... solum ... publicam ... ad hoc ... communem ... Bobadilla in Politica lib. 2 c. 18 nº 312.

Nec admittenda est ... quod ... procedant quo ... tributum in ... ratione praedij ... vel ecclesiasticas personas ...

[illegible] ... 19 ... quod ... non solo quod ... tributum ... sed quia ... publicae ... ipsae ... ratione ... contribuunt ... et maxime quia ... sententia et resolutio quod ... non ... tributa ... vel ... ratione tributi ... vel ... non ... esse ... mutatione personae ... privilegium ... libertas ... ratione ... non ... in ... personae ... solutione ... resoluta ... antea ... tributaria quia persona ... privilegiata ... personae et ... privilegium ... quod doctrina et sententia ... tributaria ... ecclesiae ... non debet solvi in ... Nec huic sententiae ... obstare potest quod ... non ... ratione personae ... tributa solvantur ... et ... mulieribus et ... persona ... mutatione personae ... tributum ... et ... quod ... personae ... habeant ...

ratione

[illegible]

... multa a p. l. fora mutabitur [illegible] ... late [illegible] hic adverrendo [illegible] ... 4 p. c. [illegible] ... sequentibus —

Ampliatur quidem haec resolutio etiam si clerici habeant bona communia cum fratre vel alio laico pro indiviso, quae bona sunt tributaria ante quam dividantur, pro ea parte qua bona spectant ad clericum tributum non debet solui, licet alias bona essent tributaria, et pro parte qua pertinent ad laicum fratrem seu consortem debet solui tributum, nec privilegium clericatus adeo potens est ut possit supprimere naturam praedii tributarii pertinentis ad laicum. Quod intelligitur et declaratur nisi praedia vel res tributariae sint individua quae non possunt commode dividi [illegible] arg. l. [illegible] ubi omnes doctores [illegible] quemadmodum servitutes [illegible] l. [illegible] corpus [illegible] videtur [illegible] de concessione praebend. [illegible] vers. [illegible] quae iura [illegible] communia [illegible] 4 p. c. [illegible] de nota [illegible] circa finem —

In consilio [illegible] doctrinae quod tempore necessitatis [illegible] ecclesiasticae personae tenentur contribuere et [illegible] contra bona clericorum debet et potest fieri. [illegible] plures [illegible] et auctoritates [illegible] quod occurrente ad [illegible] necessitates [illegible] non solum [illegible] sed [illegible] naturali [illegible] clericis [illegible] propter [illegible]

Rex [illegible] pro necessitate [illegible] aurum et argentum usque [illegible] ipsi Asa omne aurum et argentum quod remanserat in thesauris [illegible] et in thesauris domus regis [illegible] fecit Ioas Rex Iuda cum [illegible] Azael Rex Syriae ut constat ex illo lib. 4 c. 12 [illegible] tulit Ioas Rex Iuda omnia sanctificata quae consecraverant Iosaphat et Ioram et Ochozias patres eius reges Iuda et quae ipse obtulerat et universum argentum quod inveniri potuit in thesauris templi Domini et in palatio Regis misitque Azaeli Regi Syriae et recessit ab Ierusalem. Et Ezechias Rex Iuda a [illegible] lib. 4 Regum c. 18 [illegible] dedit Ezechias omne argentum quod repertum fuerat in domo Domini et in thesauris Regis. In tempore illo confregit Ezechias valvas templi Domini et laminas auri quas ipse affixerat [illegible] necessitate [illegible] ut constat [illegible] Regum lib. 1 c. 21 [illegible] ergo [illegible] sacerdos [illegible] panes propositionis qui sublati fuerant a facie Domini [illegible] quod [illegible] verba [illegible] de la Yglesia [illegible] el Rey [illegible] puede [illegible] para la [illegible] guerra [illegible] gran necesidad que el Rey pueda tomar la tal plata [illegible] despues la [illegible] a los Yglesias [illegible] et omnia [illegible] plures auctoritates [illegible] probationem [illegible] plures doctores [illegible] lib. 2 [illegible] cum pluribus sequentibus [illegible]

[illegible]

[illegible]

[illegible] cap. 9 in ha[c] parte de gabelis [illegible] pro [illegible] non obstante [illegible] contra decretum quod [illegible] tributum [illegible] procedente coram ecclesiastico [illegible] vel ad minus [illegible] secularis judicis [illegible] quia ad illa [illegible] clericorum non solum competit per [illegible] sed etiam [illegible] privilegio [illegible] communiorem sententiam omnium doctorum ac propterea judices seculares [illegible] auctoritate non possunt [illegible] clericis tributa sed [illegible] debent ad judicem ecclesiasticum [illegible] quae sententia probatur [illegible] partida 1a [illegible] asi mismo de [illegible] los prelados de los grandes [illegible] que son [illegible] para esto [illegible] que lo [illegible] quisieren [illegible] prelados que [illegible] son [illegible] en toda [illegible] de lo [illegible] porque son [illegible]

In hac controversia vera [illegible] ut primum opinio procedat quando [illegible] propter [illegible] causam [illegible] damnum reipublicae [illegible] sequitur [illegible] non est necessarium [illegible] principes [illegible] ad [illegible] et [illegible] necessitas [illegible] contra [illegible] secularia [illegible]

[illegible] secundum [illegible] clericorum non solum [illegible] cum [illegible] necessitatis [illegible] non posse procedere contra [illegible] secularem quoniam [illegible] probatio [illegible] sed debet [illegible] judices laici [illegible] vel ecclesiastici tributum [illegible] quo in casu non quam [illegible] non judices ecclesiastici [illegible] ut [illegible] quam [illegible] contra [illegible] ad [illegible] simili [illegible] debere [illegible] doctores ad [illegible] [illegible] 326 [illegible] plures alios [illegible] q. 92 n. 48 [illegible] secundum [illegible] interpretationem [illegible] in quibus clerici tenentur ad [illegible] non [illegible] reipublicae utilitate et [illegible] defendendum ut [illegible] necessitas [illegible] judices ecclesiastici [illegible] ad [illegible] et [illegible] de quibus [illegible] necessitas [illegible] et [illegible] principes vel [illegible] gubernatores reipublicae possunt procedere contra [illegible] clericorum cum [illegible] necessitatis [illegible]

Hanc [illegible] tributorum circa ecclesias et ecclesiasticas personas

[illegible]

... et hoc [illegible] ... privilegio [illegible] ... ecclesiastica [illegible] ... immunes [illegible] ...

[illegible]

93

[illegible]

... contra [illegible] ... quod [illegible] ... persona ecclesiastica [illegible] ... immunitas [illegible] ...

[illegible]

sit [illegible]

[illegible]

Sed [illegible] scilicet [illegible]

[illegible]

[illegible] et professus [illegible] nec persona [illegible] veritate cum ille [illegible] quod non profes[illegible] quod sit [illegible] et non ad [illegible] primo [illegible] et [illegible] eodem [illegible] ad [illegible] gaudent [illegible] nobiles ad [illegible] non solum [illegible] tributorum non [illegible] persona quae resolutio [illegible] procedit quod [illegible] gabelarum et tributorum [illegible] hoc habebit privilegium [illegible] et omnes [illegible] solvere [illegible] in lib. [illegible] quod [illegible] gabelarum et tributorum [illegible] gabelas [illegible] de gabelas [illegible] et auctoritates [illegible] Joannes Gutierrez de gabelis q. 95 [illegible] contra [illegible] verum [illegible] et ordinem [illegible] regularium [illegible]

Nec obstat quod predicti [illegible] privilegium [illegible]

[illegible] Joannes Gutierrez [illegible] q. 95 [illegible]

35 [illegible]

Hec [illegible] tributorum [illegible] et [illegible]

95 [illegible] bonis [illegible] vel [illegible] tributorum [illegible] quidam doctore [illegible] quod [illegible] in persona clericorum [illegible] privilegium [illegible] tributum [illegible] plura [illegible]

Ut ergo [illegible] clericos et ecclesiasticas personas [illegible] tributorum solutione [illegible]

96 [illegible] generalem [illegible] quod omnes [illegible] solvere tributa generaliter [illegible] privilegium [illegible] in [illegible] resolvimus [illegible] quam [illegible] personas [illegible] in legibus gabe[illegible]

[illegible]

[illegible] immunes iudicarent [illegible] tributis [illegible] publicis [illegible] tabulis [illegible] [illegible] particularem [illegible] [illegible]

Ex his primum locum [illegible] quidem cum tributa solve[illegible] [illegible] ad [illegible] [illegible] solvebat [illegible] patrimonia habebat [illegible] [illegible] territorium 4 [illegible] [illegible] [illegible] nobilitatis [illegible] [illegible] nobiles [illegible] [illegible] solvebant [illegible] [illegible] in nostra [illegible] quod primum tributum [illegible] vocatur pecho Real a quo nullus [illegible] [illegible] [illegible] [illegible] [illegible] nostrum nobilesque [illegible] [illegible] [illegible] vocabant [illegible] [illegible] [illegible] [illegible] [illegible] tributum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Juanes Garcia de nobilitate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contributiones [illegible] [illegible] nobiles [illegible] [illegible] publicis [illegible]

[illegible] ordinariis [illegible] [illegible] [illegible] [illegible] 173 [illegible] [illegible] [illegible] nobiles [illegible]

Hanc etiam tributorum [illegible] [illegible] [illegible] [illegible] tributa [illegible] [illegible] de muneribus et honoribus [illegible] [illegible] [illegible] de muneribus et honoribus [illegible] Juanes Garcia de nobilitate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Solebat etiam immunitas [illegible] tributorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tributa [illegible] tributum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tributorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

101 [illegible]

[illegible] formam constitutionem predictam [illegible] ut ex praedictis [illegible] recopilatis [illegible] seu vocabulary [illegible] dictis [illegible] non sunt [illegible] ut expressa [illegible] in [illegible] 4 [illegible] recopilatis [illegible] religiosis [illegible] communitatis [illegible] aliis [illegible] pro communitate maxime si munera sunt personalia non vero realia [illegible] professore [illegible] numero sunt professores [illegible] munera [illegible] personalibus [illegible] in registro [illegible] medici [illegible] de quibus [illegible] de registro [illegible] medicis [illegible] doctoribus [illegible] advocatis [illegible] ultra [illegible] recopilatis [illegible] n° 99 —

Sicut et declaratis [illegible] non [illegible] tributorum [illegible] munerum [illegible] publicae [illegible] castae [illegible]

102 [illegible] publicae [illegible] nobiles [illegible] privilegiati [illegible] omnes [illegible] publicae [illegible] privilegium [illegible] non [illegible] castae [illegible] nobiles [illegible] alii [illegible] castas [illegible]

[illegible] in castae [illegible] nobilitatis vel [illegible] ille [illegible] nobiles vel [illegible]

Ultra [illegible] ordinarium [illegible] ordinarium quod [illegible] vel [illegible] munera [illegible]

103 [illegible] tributa quaelibet imponuntur [illegible] nobilitati [illegible] nobiles [illegible] qualitatis [illegible] primum [illegible] gabelle hoc est alcabala quod [illegible] nobiles non privilegia [illegible] contribuere [illegible] nobilitatis [illegible] reale [illegible] de gabellis [illegible] n° 33 [illegible] tributa [illegible] nobilitatis [illegible] omnes [illegible] privilegio [illegible] nobilitatis [illegible] gabelle [illegible]

Contra eos qui tributa fraudant [illegible] ordinationes [illegible] particulari [illegible]

104 [illegible] circa tributum gabellae hoc est alcabala in hoc proposito ad [illegible] quod solet [illegible] certa quantitate pro gabella solvatur [illegible] fraudes [illegible] contra [illegible] gabellam [illegible] de ley [illegible]

... vez que ... fuere ...

... fuere fecha ... de alcabalas ... vendido ... vel ... mercaderes ... gabela ... [illegible] ... fraudantes ... quod ... [illegible] ... apuntamientos de alcabalas 30 et 31 ... vino y aceite y las demas mercadurias ... dicho es ... pierda el vendedor el valor del dicho vino o aceite y las demas ... mercaderias ... vendedor ... de pagar el alcabala por entero y el comprador incurra en otro tanto para ... el valor de dicho vino o aceite y demas cosas que comprare segun dicho es ... [illegible]

106 ... [illegible] ... de mercaderes ... anno millesimo sexcentesimo primo ... [illegible] ... de los mercaderes ... [illegible] ... que comete ... vendedores ... en las penas de las ... [illegible] ... perdimiento del vino y ... que comete el fraude ... cinquenta dias y por la segunda vez ... de las dichas penas ... desterrados del pueblo donde ... [illegible] ... y corredores ... y por la tercera vez ... quatro años ... segun ... [illegible]

... [illegible] ...

107 ... [illegible] ... menor ... doctores ... [illegible] ... menor ... [illegible] ... aut menor ignorantia ... fraudare aut ... dolo ... [illegible] ... ignorancia ... probato dolo ... [illegible] ... probato fraude ... de ignorancia ... [illegible] ... que ... a lo que ... alguno de ... fuesse menor de catorce años que ... en esta pena ... [illegible] ... que debe ser guardado ... aquel que lo ... fuesse mayor de catorce años e menor de veinte y cinco años ... [illegible] ... probado ... [illegible] ... 2 ... 4 ... 40 ... 46 ... 25 ... [illegible]

108 Dubitatur in proposito ... [illegible] ... in mercaderes ... [illegible] ... et ... [illegible] ... ad ... [illegible]

producto

[illegible]

... prop[ter] ... pro solutione ...
... gabellas ... fraude ... vectigalium
Bobadilla in Politica lib. 4.
cap. 5. nu. 12. ... sententiam posse procedi contra fraudantes tributa, vectigalia, et aduanarum ... cum contrabando ... per ... que ... committitur ... possit contrabando ... quod tributi ... sententiam propter auctoritatem Bobadillae et doctorum quos ipse sequitur ... nec ... video ... hoc immutatum esse per nostrum Philippum 4. per pragmaticam editam die nono februarii anno millesimo sexcentesimo vigesimo secundo, nunc in ... lib. 6. recopilationis ... haberi ... y ... que ... se ... jar ... de ... mercaderias ... mando que ha ... biendo ... de las mercaderias que se traxeren a estos Reynos de los puertos y aduanas de ellos no se ... da ... ni ... haga causa de ... nacion ... ni ... pena ni ... sin embargo ... ni ... aunque se diga y pretenda que las mercaderias son de contrabando y de las que estan prohibidas en el comercio de estos Reynos, pues a la entrada de ellos en los puertos y aduanas podran ... y registrar ... para saber ... quando entran las mercaderias que ... son de contrabando y ... las ... cuyo comercio esta prohibido ... para que queden de ... ... est ... quod ... contrabando ... vectigalium ... quod ...

... tem ... in ... quantitate ... gratiorem ... contra ... in ... tributum ... praestatur ... contra ... de las ... y ... contrabando ... vectigalium ... contra ... vendi ... bonorum ... in ... et ... quod ... aduanas ... ad ... et ... in ... lege ... in ... contra ... Covarr. in ... cap. 95. nu. 5. vers. ... de ... regni ...

Ex quo ad finem intelligitur ... in proposito ... posse ... vel ... rerum ... contrabando ...

109 ... seu de contrabando ... vectigalium ... et ... fraude ... quod ... contra ... quod ... ad quem ... omnes qui ... ad fraudem ... contra eos ... qui ... per ... art. 4
§ 2. nu. 14 ...

DIT. 289

[illegible]

... dispensatio ... Joannes ... 66 ... 67 ... nihil minus

CAP. 12.

1 Professio ... expressa ab ... tacita
2 Professio expressa qualis et quomodo fiat
3 Professio ... in ... professorum
4 Professio tacita quae sit et quomodo fiat
5 Professio tacita ut fiat quae requirantur
6 Professio ... nulla ...
7 Professio tacita ... revocare solebat
8 A ... contra voluntatem ... non ... fiunt
9 Professio tacita non ... probationem ...
10 Religionis professio ... matrimonium postea ... annullare
11 Religionis professio ... comprehendit
12 Castitatem promittens in professione religionis non potest contrahere matrimonium
13 Prior qui est tempore potior est jure
14 Ordo sacer impedit matrimonium contrahendum
15 Matrimonium impedit religionis professionem
16 Verdicto ... professio ... habet traditionem
17 ... professio ... semper praefertur
18 Matrimonium ... ratum et consummatum non vero ... ratum et non consummatum ut impediat religionem
19 Ordo sacer non annullat matrimonium ratum
20 Professio ... impedimentum per matrimonium consummatum non tamen per ratum
21 Religionis professio quando annullet matrimonium consummatum
22 Copulas ... impossibilis ...
23 Matrimonium consummatum per copulam ... impedit religionis professionem
24 Sponsa de praesenti per ... copula non consummat matrimonium
25 ... quae ... professionis ... facta sunt
26 Matrimonium post professionem contractum valet si professio praecedens est nulla

[illegible]

31 I... [illegible]

32 Oblatio ... facta revocari non potest ... oblatum
33 Parentes non ... oblationem ... professi ...
34 Oblationis ... non ... auctoritate ...
35 ... [illegible]
35 Oblationis tempore ... non ... aetatem
36 Oblatio filii ... matrimonium ...
37 Intelligitur ... 20 ... 15
38 Oblatio ... infans ...
39 Oblatio ... filiis ... blasphemis
40 Oblatio ... contra voluntatem ... revocatur
41 Oblatio vel voluntas patris vel matris ... contra ... oblationem
42 Oblatio vel revocatio religionis ... pertinet ... ad se ...
43 Oblatio ... parentes sacerdo.
44 Oblatus ... potest
45 ... parentes ... oblatione ... non ...
46 Oblatio tacita vel expressa et tacita vel expressa per impubertatem ... revocari non potest.
47 Oblatione facta ante pubertatem ... revocari potest ... contradicere ... non possit ... clausulam ...
48 Oblatus ... oblatione ... votum
49 Oblatio ... an possit ... pubertatem
50 Professionis ... in feminis ... annum ...
51 Intelligitur ... 20 ...
52 Professionis ...
53 Aetas ... annorum ... ad professionem
54 Aetas ... requiritur

[illegible]

63 Tempus congruum semper inchoandum ab initio anni.

64 Annus probationis potest vel debet incipere ... anni ...

65 Annus nobiliabus in professione ... post decimum septimum annum completum.

66 Annus nobiliatus debet esse continuus.

67 Tempus omne est continuum.

68 Annus continuus debet esse non obstante ... privilegio ...

69 Annus nobiliatus ... superiorum ...

70 Annus nobiliatus ...

71 Habitus ... probationis ...

72 Nobilius ... debet assistere in monasterium ...

73 ... debet assistere per annum probationis.

74 Annus ... non potest.

75 Annus probationis completus professio ...

76 Professio nulla ... annus ...

77 Professio ante annum probationis ...

78 ...

81 ...

82 ...

83 Voluntas mulieris ... professione ... declaranda est.

84 Professio per ... contemplata nullo ... professione ...

85 Recusans ... professionem ...

86 Professio ... nulla est.

87 Votorum mulieris ...

88 Dolus quando annullet professionem.

89 Dolus in omni contractu ... est.

90 Dolus annulat contractum ...

91 Metus debet esse ... professione ...

92 Professio requirit voluntatem liberam et non ... voluntas ...

93 Metus ... matrimonium.

94 Metus ... quando annullet professionem.

95 ... professionem ...

Praxis pro declaranda nobilitarum voluntate.

96 Professio requirit animum profitendi.

97 Professio solemnis ... in foro exteriori ... in interiori ...

98 Professio solemnis debet fieri ... et ... prelati ...

99 Professionis forma ...

100 Professio non valet nisi ...

101 Professio debet fieri ... obedientia paupertatis et castitatis.

102 Professio non valet ... contra ...

[illegible]

105 P [illegible]

106 I [illegible] ... re[illegible] ... sione

107 P [illegible] nulla [illegible] clausa [illegible] semper [illegible] quemcumque [illegible]

108 I [illegible] debet professus [illegible] nullam

109 P rofessio nulla [illegible] annus probationis [illegible] quando requiratur

110 P rofessionis [illegible] requirit [illegible]

111 P rofessio nulla [illegible]

112 P rofessionis [illegible] non requirit solemnitatem [illegible] professionis

113 P rofessionis [illegible]

114 I mpedimenta ad reclamandum [illegible]

115 I mpedimentis [illegible] quemcumque [illegible]

116 I mpedimenta [illegible]

117 P rofessus [illegible] reclamatione [illegible] Concilium Tridentinum

118 A [illegible] reclamat [illegible] contra professionem [illegible] ordines nullitatem

119 P rofessionis nullitas non est intentanda [illegible] professi

120 O rdines [illegible] non videtur congruere in professionem nullam

121 Q uemcumque ad nullitatem professionis intentandam quando incipit currere

122 Q uemcumque [illegible] impedimentum quando incipiat

123 N ullitas professionis [illegible] coram [illegible] intentari [illegible] cognoscendi [illegible]

124 N ullitas professionis intentanda [illegible] quidem [illegible] in foro [illegible] nullitate [illegible]

125 N ullitas professionis intentari [illegible]

[illegible] cardolo

128 N ullitatem professionis [illegible] religionis [illegible]

129 N ullitas professionis [illegible]

130 N ullitas professionis [illegible] ordinarius

131 I nstare [illegible] nullitatem professionis [illegible]

132 A ppellatio a sententia nullitatis professionis [illegible]

133 I [illegible] ordinarius [illegible] tanquam ordinarius vel delegatus

134 Q [illegible] in foro [illegible] professus [illegible] professionem [illegible] in foro [illegible] contrario non [illegible] professus [illegible]

CAP. 12. DE RELIGIONIS PROFESIONE AC EJUS NULLITATE

circa intellectum Concilii Tridentini sess. 25 de regularibus c. 19.

Hujus capituli materia [illegible] apprehendi [illegible] et [illegible] tota [illegible] doctores [illegible] faciendo mentionem capituli Concilii Tridentini [illegible] alegationes [illegible] quia [illegible] de [illegible] occurrere [illegible] et [illegible] eorum [illegible] et [illegible] nostri [illegible]

Pro hujus materiae [illegible] praemitto quod professio [illegible] qualiscumque Concilium Tridentinum sess. 25 de regularibus c. 19 [illegible] de regularibus [illegible] 73, 19 q. 3 [illegible] miranda in [illegible]

praelatorum

[illegible]

… in hoc habentes universa … promittunt … qua accipit … acceptante se omni studio … in quantum potuerit … quam pro fragilitate humana … continentiam et castitatem servare prelatisque obedientiam et debitam regule illius religionis … observationem prestabit … ut consuetudines et mores si quos habuit … corruptos in melius deinceps mutare omniaque bona sua … prelati … fr. … 2ª parte … Antonius … lib. 3 … 1 n° 54 fr. Ludovicus Miranda … d. q. 24 art. 1 conclus. 1 ubi … requisita ad hanc professionem … resolvit … Primum ut fiat ab habente legitimam etatem hoc est annum decimum sextum, Secundum quod fiat post expletum probationis annum continuum, Tertium quod fiat in manibus prelati illius religionis … religionem in corporalem vel … Quartum quod precedat consilium vel … maioris partis illorum qui … Quintum quod … professio sit in religione per sedem apostolicam approbatam … Sextus quod illa professio contineat … castitatem paupertatem et obedientiam de quibus omnibus late agit … frater Ludovicus Miranda d. q. 24 … de quibus agendum …

3

4

5

[illegible]

… professione in … regulari … sed de … regularibus … verbo … in declaratione … 3 … de regularibus … Miranda … 1 n° … similiter post factam professionem … secundum mores illius religionis … prelato … est quod … per prelatum … de … voluntate contra religionem … professionem … Lib. 2ª parte … verbo … plura … Antonius … lib. 3 … n° 7.

Alia est professio tacita … qua … per completum annum … transacto probationis anno … in religione per sedem apostolicam approbata in qua professus … obedientiam prelato … religionis et secundum illius regulam … servando promittit obedientiam castitatem et paupertatem … habitu professorum … et … prelato … professionem … Miranda d. q. 24 art. … conclus. … Antonius … d. lib. 3 … n° 63.

Ex quo sequitur primo quod … professio … necessitatem est … professionem … veteranorum …

[illegible]

... professo ... [illegible] ...

... regul. vel prelati ... [illegible] ... veteranorum professorum ... expressa professio ... prelatus ... incorporandi religio[n]e ... tacita professio debet ... [illegible] ... cum ... [illegible] ... Miranda ... 24 ... [illegible] ... 18 ... Graciano ... 640

n.º 31 et 38 docet ... resolvit quod ... professum ... [illegible] ... professorum ... inducatur ... religionem nec professio ... inducat ... Graciano d. c. 640 n.º 39.

Quod tacita professio nulla predicatur ... [illegible] ... requisita ... expressa. Primo quod ... professus ... annum ... ad ... professionem ... Secundo quod ... [illegible] ... professus ... voluntatis. Tertio quod talis professus sponte ... professus non vi nec dolo aut metu. Quarto quod ... [illegible] ... per ... cum voluntate prelati vel alterius ... [illegible] ... Miranda d. q. 24 art. 3 ... [illegible] ... professionem ... [illegible]

Et quando hec omnia requisita ... [illegible] ... presumpta professio ... in totum professio ... [illegible] ... in contrarium

...

... contra voluntatem ... [illegible] ... non ... [illegible] ... idem ... 14 ... de ... [illegible] ... 2 ... [illegible] ... requisita ... [illegible] ... 19 ... 40 ... de ... professio ... [illegible] ... 4 ... Antonius Gomez ... 2 ... 10 ... 17 ... professorum ... contrario ... professionem ... contra ... voluntas ... professione procedatur ... expressa que semel perfecta est professio semel legitime obligatus ... obligatione liberari non potest ... professio ... ad ... professionem ... prelatum ... expressa ... glos. ... 43 ... Cobarr. ... 2 ... 3 ...

Quo ... quod professus ... religione ... in ... professione ... matrimonium ... professionem ... religionem professione ... professio ... matrimonium ... professionem ... contra ... [illegible] ... superior ... [illegible] ... religionem ... matrimonio ...

... vel ...

[illegible]

... professione relig. quoniam
profitentur scilicet obedientiam
castitatem et paupertatem adeo ut in
... professione de substantia ea omnia
... profitentur ut quoties religiosus
dicitur esse [illegible]
[illegible]
hoc est [illegible]
religione [illegible] plura [illegible]
comprobationem congessit [illegible]
[illegible]
[illegible] praelatorum [illegible]
[illegible] adeo quod [illegible]
religionem profiteri et solemniter praecedendo [illegible] emittat
professionem et in ea solum mentionem
faciat de voto castitatis [illegible]
professio religionis est [illegible]
at matrimonium contrahendum [illegible]
de facto contrahat nullum sit [illegible]
[illegible] sententia [illegible]
[illegible]
Antonius Gomez [illegible]
5 n. 12 n. 23 cum in matrimonio [illegible]
[illegible] copula [illegible]
in voto castitatis quod est [illegible]
[illegible] ideo prohibetur
matrimonium sequens [illegible] impedimentum
ad religionem [illegible]
ad quod primo [illegible] obligavit
[illegible] castitas [illegible] in matrimonio et
[illegible] voti religionis
[illegible]
nam qui prior est tempore potior est
iure [illegible]
[illegible]
[illegible] qui prior est tempore
[illegible]
99 ff. de reg. iur. [illegible]
[illegible]
[illegible] comprobationem adducit
[illegible]
[illegible] professo est [illegible]
[illegible]

[illegible]
[illegible] 32 [illegible]
[illegible] 65 n. 12 n. 21
[illegible]
contrario dicendum videmur [illegible]
[illegible]
[illegible] matrimonium [illegible]
pedimentum [illegible] religionem
[illegible] sacramenti [illegible]
[illegible] probat [illegible]
[illegible] 12 [illegible] Cor. 6 [illegible]
[illegible] verba [illegible]
[illegible]
[illegible] reddere [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] reddere [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] religionem [illegible]
[illegible]
[illegible]
[illegible]
[illegible] traditum est
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

per [illegible] l. 3. C. de [illegible] [illegible]

[illegible]

[illegible] contractus [illegible] habere [illegible] verdadero [illegible]

[illegible] contrahentes et [illegible]

[illegible] habere [illegible] in [illegible] contractu [illegible]

[illegible] professionem [illegible] solemnem [illegible] matrimonii [illegible]

[illegible] l. 3. C. [illegible] 19. n. 7. [illegible] in loco

de [illegible] n. [illegible] in loco [illegible]

[illegible] quod [illegible] est [illegible] obligatio [illegible] matrimonii [illegible]

[illegible] in [illegible] et ne possit transire ad religionem et contrahere matrimonium

est [illegible] professio [illegible] religionis

ne postea secuta sit nulla et inefficax

quam sententiam [illegible] limitationibus

[illegible] Thom. Sanchez de matrim. lib. 7. d. [illegible] 34. n. 1. ubi [illegible] sequentibus plures in materia quaestiones tractat et decidit, [illegible] Gutierrez de matrim. c. 54 n. 20.

Haec quidem resolutio non ita simpliciter debet intelligi, sed cum hac declaratione ut procedat quando matrimonium est solemniter contractum [illegible]

[illegible] professionem [illegible] religionis [illegible]

[illegible] professionem [illegible]

[illegible] matrimonii [illegible] professionem [illegible]

[illegible] votum [illegible] matrimonium [illegible]

[illegible] religionis professionem [illegible]

[illegible] matrimonium [illegible] professionem [illegible] solemnis [illegible]

[illegible] votum [illegible] non solum [illegible] sed [illegible]

[illegible] matrimonio [illegible]

[illegible] Sanchez [illegible] de matrim. lib. 2. d. [illegible] 18 n. 3 [illegible]

[illegible] professus [illegible] religione [illegible]

[illegible] non professi [illegible] religio-

nem [illegible]

[illegible]

... in sp. lib. 6 [illegible] nº 76.

Sed quaeritur an [illegible] mente matrimonio [illegible] consummato

30 alter coniux possit altero [illegible] religionem ingredi et [illegible] matrimonium consummatum non posse ad religionem transire impediatur per matrimonium religionem ingredi [illegible] professio, in dubium venit et ratio [illegible] comprobationem [illegible] nam sicut de matrimonio solemniter contracto et copula consummato Deus dixit: quos Deus coniunxit homo non separet, de matrimonio rato non consummato Deus id dixit propter perfectionem statum [illegible] et [illegible] matrimonii [illegible] probatur [illegible] 26 27 q. 2 [illegible] verba [illegible] quod Deus coniunxit homo non separet [illegible] et non homo separat quando de [illegible] matrimonia dissolvuntur ab [illegible] autem per [illegible] separavo [illegible] prohibemus [illegible] matrimonium [illegible] consummatum [illegible] ab ambobus contrahentibus [illegible] rationes [illegible] et nos loquimur quando matrimonium non est consummatum [illegible] repugnat [illegible] potest nam [illegible] matrimonium dissolvi [illegible] commutari [illegible] videtur [illegible] quae permittit [illegible]

31 coniux [illegible] creatura [illegible] quam [illegible] videtur [illegible] scripsit [illegible] professione [illegible] quod [illegible] procedit [illegible] professione [illegible] sponsus [illegible] professionem [illegible] sponsus [illegible] secundum proximam rationem et resolutionem [illegible]

Ex dictis sequitur quod [illegible] matrimonium [illegible] consummatum [illegible]

32 alter non posse [illegible] contrahentibus [illegible] religionem transire [illegible]

[illegible]

§ 4 c. [illegible]

[illegible] consummationem [illegible] Regalhes [illegible] lib. 6 27 q. 2 a [illegible] 3 [illegible] quam sententiam [illegible] Thoma in 4 dist. 37 q. 1 art. 2 [illegible] secundum [illegible] verbo matrimonium nº 12 [illegible] Henriquez in Summa c. 5 nº 10 [illegible] de sponsalibus [illegible] § 3 nº 4 fr. Emanuel Rodriguez [illegible] q. 13 art. 1 Thom. Sanchez matrimonio lib. 7 q. 32 nº 2 Stephanus [illegible] l. c. 102 nº 2 Augustinus Barbosa in collectaneis lib. 3 [illegible] c. 4 nº 2 [illegible] c. 95 nº 1 [illegible] c. 31 nº 4 [illegible] Antonius [illegible] lib. 5 c. 12 nº 72 [illegible] q. 17 art. 1 [illegible] adverto [illegible] hoc [illegible] q. 9 nº 1 [illegible] doctrinae [illegible] ratione [illegible] alterius coniugis [illegible] religionem [illegible] occasionem [illegible] in saeculo [illegible] propter [illegible] impossibile [illegible]

22 [illegible] matrimonii [illegible] c. 3 [illegible] q. [illegible] professione [illegible] secundum [illegible] professio [illegible] religioni [illegible]

23 [illegible] matrimonii [illegible] solemniter contrahentium [illegible] professionem [illegible] secundum [illegible]

[illegible]

[illegible] ... matrimonio [illegible] ... et sequentibus [illegible] ... ad finem [illegible] pluries adverte[illegible] ... circa praedicta doctrina fundamenta [illegible] ... adverti Pater Thomas Sanchez de matrim. lib. 7 disp. 22 n. 4 vers. et sequentibus [illegible] procedere in [illegible] quae post [illegible]

[illegible] matrimonii sacramentum cele[illegible] ... per [illegible] ... professio [illegible] ... contracto quo [illegible] ... debet [illegible] ... velit [illegible] religio[illegible] ... post [illegible] ... de [illegible] ... hujus doctrinae comprobationem [illegible] ... in [illegible] ... propositio videbatur circa professionem [illegible] ... in matrimonio solemne et [illegible] pluries quaestiones adverte proxime citato [illegible] Pater Thomas Sanchez d. lib. 7 disp. 22 et sequentibus [illegible] ... lib. 7 disp. 32 [illegible] ... de matrim. de [illegible] ... per totum [illegible] ... profes[illegible] ... impedimentum quod [illegible] matrimonium ad religio[illegible] ... quod [illegible] ... post [illegible]

Illud in proposito adverto quod [illegible] ... post professionem [illegible] ...

29 [illegible] ... matrimonium contra[illegible] ... valeat [illegible] ... quod [illegible] ... professio [illegible] ... ad finem de matrim. contracto contra interdictum ecclesiae [illegible] Barbosa [illegible] Philippus [illegible] ... vers. [illegible]

[illegible] ... pro [illegible] ... probatam quae [illegible] ... in [illegible] ... probatum in [illegible] ... doctorum [illegible] ... quod matrimonium contractum post professionem esse nullum [illegible] tamen [illegible] ... vera [illegible] ... cognito [illegible] matrimonio [illegible] ... invalide profes[illegible] ... matrimonium [illegible] ... professionem [illegible] nullam et matrimonium legitimum non quidem contrahentem per professionem esse impedi[illegible] ... matrimonii [illegible] ... per invaliditatem professionem [illegible]

Pro quidem quo [illegible] ... post professionem matrimonium contrahentes [illegible] quod [illegible]

27 [illegible] ... ad [illegible] ... communicationis [illegible] ... in toto 27 [illegible] ... per [illegible] ... et oratione [illegible] ... per [illegible] ... in [illegible] ... in Concilio [illegible] ... haec verba [illegible] ... ad [illegible] ... proxime [illegible] ... 27 [illegible]

Secunda professio nulla [illegible] ... professio [illegible] ... legitimam [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

... c. 2. de regularibus d. c. [illegible] 2. ... verbo at [illegible] n. 10 ... d. c. 18 n. 10 —

Tertio nota quod si semel parentes vel ordinarius consenserint ad habitus susceptionem ante pubertatem ... illum revocare non possunt ... [illegible] ... d. c. 18 n. 11

Quarto nota ... annum ... [illegible] ... intra annos ... pubertatis ... [illegible] ... d. c. 18 n. 12

Quinto nota ... professionem intra annum ... propria authoritate ... [illegible] ... d. c. 2 de regularibus ... [illegible] ... d. c. 18 n. 13 ... c. 2 verbo ... [illegible]

[illegible]

Sexto nota quod aliquando ... [illegible] ... professionem ... [illegible] ... d. c. 18 n. 14 —

Septimo nota quod ... professionem ... [illegible] ...

[illegible]

[illegible] ... quod pater filio ... [illegible] ... 4. [illegible] ... ceterum [illegible] ... sufficit [illegible] ... non requiritur ... quod si unus contradicat, ipse in praedictione standum est quam [illegible] contrahentem [illegible] ... ad [illegible] regularibus.

Nec huic resolutioni dico obstare [illegible] addidit [illegible] 2. n. 10 [illegible] oblationem [illegible] faciendam sufficit consensus parentis vel [illegible] n. 19 [illegible] vel saltem [illegible] infirmitas sufficere consensum unius seu alterius, cum nemo contradicente, non [illegible] impediret in [illegible] obliquo nam respondetur quod illa [illegible] loquuntur quando unus facit oblationem filii, scilicet pater, filii mater et alter non contradicit, [illegible] ad oblationem admittendam sufficit unius consensus sine contradictione alterius, at si alter contradicat cum sit facultas communis et consensus [illegible] quod unius contradictione impediatur et ita illis [illegible] debent intelligi.

Octavo nota an haec potestas [illegible] parentum [illegible] plurimi [illegible] tenere [illegible] offerre possit idem facere [illegible] aliquem [illegible] in [illegible] oblatione sit [illegible] patre [illegible] quod [illegible] non habet in filiis [illegible] glossa verbo [illegible] 2. [illegible] patre [illegible] non posse [illegible] filium [illegible] posse et [illegible] de facto valere [illegible] oblationem a matre factam quia in [illegible] mater non habet filium in potestate [illegible] in [illegible] habere [illegible] mater [illegible] enumerationem [illegible] glossa verbo aut unus [illegible] in [illegible] 1. [illegible] sed [illegible]

[illegible] ... obedientia [illegible] sub unius [illegible] filius [illegible] potestatem [illegible] habet locum [illegible] professione [illegible] de regularibus [illegible] n. 10 [illegible] ubi [illegible] facultas [illegible] debet [illegible] professus [illegible] quia [illegible] vel [illegible] verbum vel [illegible] quam [illegible] possit [illegible] oblationis [illegible] de [illegible] 2. n. 9 [illegible] aut unius aut ambo parentes [illegible] nec [illegible] filio [illegible] pater vel [illegible] pater et ipse [illegible] regularibus [illegible] de regularibus [illegible] tradit Pater Sanchez de [illegible] n. 18 et 19 —

Nono nota superius resolutionem [illegible] procedere in filiis legitimis circa oblationem [illegible] filiorum vel [illegible] 39 non habent [illegible] locum in filiis spuriis vel illegitimis [illegible] argumentum [illegible] proxime citata loquuntur per verba [illegible] est [illegible] verbis [illegible] filios [illegible] filii [illegible] de [illegible] aliqua distinctione et differentia filiorum, [illegible] debent intelligi [illegible] de [illegible] 2. n. 6 de regularibus [illegible] tradit Pater Sanchez de 18 n. 20.

Decimo nota potestatem [illegible] per quam [illegible] facultatem [illegible] vel prohibendi oblationem [illegible] 40 [illegible] in quo [illegible] facultas [illegible] quidem pater vel mater, unus vel ambo contrahentes [illegible] proxime [illegible] verbis [illegible] de [illegible] est [illegible] in d. c. 2. de regularibus [illegible] verbo [illegible] 2. n. 10 [illegible] verbo [illegible] n. 11 [illegible] Pater

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[illegible]

... hac oblatione contra [illegible] ... vel absque voluntate [illegible] ... filius profiteri debet [illegible] ... ut refert [illegible] tradit Pater Sanchez d. c. 18 n° 22 et 23 —

Duodecimo noto [illegible] habere [illegible] vel revocandi facultatem [illegible] ... concessam [illegible] ... secundas nuptias [illegible]

42 [illegible] ... qui a patria potestate [illegible] ... [illegible] contrarium verius est [illegible] ... [illegible] ... [illegible] ... [illegible] in hoc actu oblationis [illegible] ut tradit Pater Sanchez d. c. 18 n° 24 —

Decimo tertio noto habere facultatem [illegible] vel revocandi [illegible]

43 [illegible] ... impuberes [illegible] ... oblationem facere [illegible] ... contra suam voluntatem [illegible] ... [illegible] parentes [illegible] vel tutores [illegible] ... facultatem [illegible] ... [illegible] oblationem facere [illegible] ... parentibus [illegible] ... [illegible] Pater Sanchez d. c. 18 n° 25 —

Decimo quarto noto [illegible] oblationem

44 [illegible] a parentibus vel tutoribus [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible]

45 [illegible] ... [illegible] ... [illegible]

Decimo quinto noto [illegible] ... voluerint filium religioni tradere [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... parentibus tradere [illegible] ... [illegible] ... religioni tradere [illegible] ... [illegible] Pater Sanchez d. c. 18 n° 28 —

Decimo sexto noto quod etsi quando pater vel tutor non [illegible]

46 [illegible] ... oblationem [illegible] ... voluntatis [illegible] ... impuberes [illegible] ... [illegible] ... filius [illegible] ... oblationem [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... d. c. puella [illegible] ... [illegible] ... [illegible] ... tradit Pater Sanchez d. c. 18 n° 29

Decimo septimo noto utrum impuberes oblati per parentes vel tutores

47 [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible]

[illegible]

[illegible]
[illegible] obligationem [illegible]
per se impuberi [illegible] vel
[illegible] valeat si vel
non possent rescindere quod [illegible] forte
pubertatis [illegible] at si non
[illegible] vellet impubes [illegible] causa
[illegible] potest facere. Ergo quod
[illegible] ipsum ad [illegible]
[illegible] non potentia qua
[illegible] sui [illegible]
[illegible] quorum obsequio impubes
[illegible] obligatur [illegible]
[illegible] hanc quaestionem resolutam
Gaspar Hurtado d. 18 n.o 30 —

Ultimo nota haec omnia procedere
18 quando impubes oblatus in religione
[illegible] non [illegible] suum [illegible] a voto.
Major difficultas est quid erit quando
impubes oblatus votum revoca-
verit [illegible] vel emisit si religionis habitu
[illegible] parentum vel tutorum volunta-
te fuerit [illegible] oblatio per parentes
revocata remaneat impubes li-
ber a voto sicut liberatur ab obla-
tione an [illegible] teneatur post pube-
tatem religionem ingredi et a voto
liberatus sit quamvis [illegible]
videatur obligare [illegible]
hoc distinguendum est quod si parentes
voti [illegible] oblationem cum voto
revocaverint non tenebitur impubes
postea illud adimplere quia ea revo-
catio est quaedam voti irritatio et
ideo [illegible] non obligat; si vero
voti [illegible] revocaverint non est voti
irritatio quia voluntas non [illegible]
[illegible] si votum fuit
factum animo perseverandi [illegible]
[illegible] pubes [illegible]
[illegible] religionem ingredi [illegible]
[illegible] revocetur at si votum [illegible]
[illegible] solum religionem ingrediendi non
[illegible] religionem ingredi quia huic voto
[illegible] satis fit [illegible]
[illegible] religionem causa
[illegible] Gaspar Hurtado d. 18 n.o 31.

Quae omnes resolutiones [illegible]

[illegible]
[illegible]
[illegible]
[illegible]
dentium [illegible]
haec [illegible] habentes [illegible]
ad [illegible] si [illegible]
[illegible] sufficere [illegible]
[illegible] nondum [illegible]
[illegible] vel [illegible]
[illegible] verba non [illegible]
[illegible] quod [illegible]
habitum [illegible] quod [illegible]
duodecim annos [illegible]
[illegible] admittantur [illegible]
pro [illegible] sententia declaratio congregatio-
nis Cardinalium [illegible] ubi declara-
[illegible] majores duodecim annis
[illegible] congregatio [illegible]
[illegible] quae duodecimum annum non
compleverint [illegible]
[illegible]
[illegible] voluntatem [illegible] declara-
tione [illegible] per haec verba con-
gregatio [illegible] puellas non
[illegible] ante duodecimum annum
ad habitum [illegible]
[illegible] 1.o [illegible]
12 c. 18 n.o [illegible] et 56 [illegible] Rodriguez in
quaestionibus regularibus 3.o tom. q. [illegible] art.
[illegible] non esse [illegible] puellas [illegible]
[illegible] quod [illegible]
de [illegible] 754 [illegible] in loco supra
citando. [illegible] contraria sententia
[illegible] quod [illegible]
[illegible] in puellis [illegible] ante
duodecimum annum [illegible]
[illegible] possunt [illegible]
intra clausuram ut [illegible] pro-
[illegible] non [illegible]
[illegible] sententiam [illegible] probatam
[illegible] Michael de Medina [illegible] hominum
continentia lib. 4 controversia [illegible] c. 4 [illegible]
[illegible] quod [illegible]
[illegible] et [illegible]
[illegible] non [illegible] de oblatione
[illegible] per [illegible]
[illegible] voluntate [illegible] libera et [illegible]
[illegible] quod [illegible] puella ingrediatur religio-
nem [illegible] major duodecim annis [illegible]

[illegible]

... [illegible] pro[fe]ssionem qui ... [illegible] annum ... [illegible] ... propter immaturitatem ... [illegible] ... puella volun[tatem] ...

Nec obstant verba declarationem Car[dinalium] ... quibus ... quia procedit quando puella non est oblata a parentibus vel tutorem sed ipsa se ... libere sine oblatione vendicat ... ad ... quia ... ante annos pubertatis et ... admitti ... declaratum est per ... Cardinalium Congregationem cuius verba refert Bellarminus ad l. c. 17 cuius verba sunt ... puella duodecim annos oblata a parentibus ... habitum regularem ante complementum duodecimum annum ... vera sententia est in quocumque infanti[s] ... aetate et ante ... annos ... religiosos habitum ... [illegible] ... Antonino ... t. 2 ... 13 ... religione tom. 3 ... c. 14 n. 9 ... c. 18 n. 3 ... da in directori ... Praelatis ... q. 8 art. 1 ... resolutionum moralium 3 p. ... tr. 1 ... 47 ... anno ... sententia quan[do] puella ingredi vult monasterium ... legato pro ... voluntatis testatoris vel quando ... ingressu ... sequitur ... non debet admitti ante duodecimum annum ... sententia ... et admitteretur ... oblatione quousque habeant duo[decim] annos et ... ante ... professionem ... per annum ... religionis et ... solemnitates quae praecedere debent et ... admitti ... sententiae ... admitti ... debent intelligi ... solemniter ... —

... [illegible] ...

... per annum ... religionis ... quod ... ante ... annos ... professionem ... adhuc ... observasse ... praedicatores ... fuisset —

Nec obstat contra ... puella ... 20 qq. 2a ... quia puella ante duodecim annos professionem religionis emiserit per annum ... nec ipsa nec parentes ... reclamare ... professio ante ... duodecim annorum ... religionis ... perpetuum ... sed ... oblatione ... ipsa ... per annum nec ipsa nec parentes possent ... reclamare ... habitum ... ut ... pubertatis ... observare ... anni in quo ... reclamationem ... sententiam ... resolutionem ... communem sequuntur ... c. 6 n. 37 ... resolutionem ... dicens non posse intelligi de oblatione ... professione ... puellam ... professionem ... professionis ... religiosae ... vocari ... resolutione ... puella ... habitus ... professione ... professionem ... religiosae ...

et [illegible]

[illegible]

... quod magis ... [illegible] ... professionis ... [illegible] ... fuerit ... [illegible] ... quia ... [illegible] ... corporis ... [illegible] ... professione ... [illegible] ... secundum ... [illegible] ... resolvit ...

54 ... loco ... et ... quo professione ... secundum ... [illegible] ... resolvit. Hieronymus Gonzalez in 8 reg. Cancellar. glos. 48 n. 51 et sequentibus.

Hodie vero circa aetatem requisitam ad professionem legitimam faciendam nobiliter statutum est ... [illegible] ...

92 ... quod si ... post decimum sextum annum completum et non antea ... facta nulla est et invalida nec professionem ... obligationem quod ... in sacro Concilio Tridentino sess. 25 de regularibus c. 15 ubi in haec verba ... In quacumque religione tam virorum quam mulierum professio non fiat ante decimum sextum annum completum ... [illegible] ... nullitatem ... remedio 15 n. 493 ... [illegible] ... annum completum ... [illegible] ... professionem ... [illegible]

... [illegible] ... resolvit ... [illegible] ... Tridentino ... [illegible] ...

93 ... [illegible] ... pubertatem et ... [illegible] ... matrimonium ... [illegible] ... professionem ... [illegible] ... religionem ... [illegible] ... professionem ... ultra pubertatem ... [illegible] ... resolvit ... anno decimo sexto ... [illegible]

Quae conclusio ... resolvit primo de ... [illegible] ... professione ...

94 ... professione ... [illegible] ... momentum ...

[illegible]

... in quarta parte 1ª et 2ª et infra a 2ª p. c. 8 n. 1 et ... Pater fr. Ludovicus Miranda in directorio prelatorum q. 24 art. 12 conclusione unica ... anno 1649 unica n. 7.

Secundo declaratur [illegible] ... ut intrem fr. ... [illegible] annum nec professionem [illegible] ultimum diem anni [illegible] computari de momento ad momentum et tanto [illegible] professio facta sit nulla ipso jure [illegible] invalidam [illegible] quod a parte probatur ex verbis [illegible] professio ante [illegible] facta sit nulla [illegible] ... vel religionis vel ordinis observa... [illegible] ... verbis rega... [illegible] ... professio [illegible] ... religionis [illegible] obedientiae quod [illegible] ... declarationem nullitatis professionis [illegible] ... declarando [illegible] professio [illegible] ... omnes doctores supra proxime relati.

Tertio declaratur [illegible] ... religionibus in quibus [illegible] consuetudine [illegible] ... professio sit ultra decem et sex annos [illegible] ... decem et octo annos [illegible] ... religionis [illegible] privilegium a Pontifice confirmatum [illegible] quod professio debet fieri post decem et octo annos [illegible] statutum in ordine sancti Francisci de Padua que vulgariter minimo

[illegible]

... nullitatem [illegible] ... professionis ... [illegible]

Nec obstat quod in dicta religione sancti Francisci de Padua adest statutum [illegible] ... professionem ante [illegible] ... annum et est confirmatum [illegible] ... non inducunt nullitatem professionis nec [illegible] ... verbum ... annullanter sed solum prohibentur [illegible] ... contra [illegible] ... probandi [illegible] correctionem generalem, et postea [illegible] ... prohibentur [illegible] ... confirmat [illegible] ... nullitatem vel [illegible] nulla est [illegible] confirmatur [illegible] ... concilium [illegible] ... contra [illegible] ... quod confirmatur ... probatur.

Nec etiam obstat quod statuta dictae religionis sancti Francisci de Padua sunt approbata et confirmata per summum Pontificem et ideo [illegible] ... nullitatem [illegible] concilium tridentinum [illegible] statuta [illegible] contra [illegible] concilium tridentinum nec Pontifex [illegible] ... interdictum [illegible] ... contra declarationem [illegible] ... tollere [illegible] ... quem [illegible] ... nec [illegible] ... generalia [illegible] authoritatem habere ad annullandam professionem nec ad [illegible] ... ad profitendum [illegible] ... religione [illegible] ... cap. 6 ... 3 ... 26 ... Ludovicus Miranda d. q. 24 art. 2 conclusione 2ª ... anno 1649 [illegible] ... congregationem cardinalium [illegible] professio ante [illegible] facta sit nulla [illegible] ... argumento [illegible] ... declarationibus [illegible]

Quarto declaratur [illegible] superior [illegible] ... annum decimum sextum [illegible] ...

...

[illegible]

[illegible] ... ut renuntiaret ... tertio ... rubricato, et ... haec sequendam [illegible] ... ueke in foro lib. 5 c. 4 n. 5 et 3 tradit Narbona d. anno decimo sexto q. unica n. 8 —

58 Quinto declaratur superior doctrina Tridentina si in computatione professorum fuerit error quo mediante ante decimum sextum annum completum fuerit professus, ille enim error non facit valere actum professionis, etiam si probetur pervenisse ad aetatem professionem legitimam, et ita de facto non facere actum nullum, atque professio nulla est, ita declaratur per sacram congregationem cardinalium super concilium decis. [illegible] non valebat quod non adimpleverat requisita, desiderata circa aetatem admittendi ad professionem etc. —

59 Sexto declaratur ut haec nullitas declaratio et defectus aetatis ut liberet a professione ... professio vel religiosus professione de bello... per ordinarium loci vel monasterium in eius religioso fuerit et incepit processum nullitatis, ita declaratum est per sacram congregationem cardinalium, dicto verbo professio ante facta sit nulla ubi haec verba dicuntur: professio facta a monachis ante decimum sextum annum completum debet ab ordinario nulla declarari, quae verba locum habent in nullitate professionis ... ex ego ... itemque debere esse in professione ... vitiatum, huius causa nullitatem intentare volueris, sive aetate professus debeat illud fieri coram ordinario sub cuius territorio monasterium ubi professus est fuerit, hoc est diocesano, sub cuius districtu quo professio facta fuerit et nobilior ... quae versatur in forma habeatur locum in monasterio —

60 Septimo declaratur dictus capitulus 15 concilii Tridentini circa aetatem professionis ... ut non procedant in religiosis militaribus ordinum militarium in quibus religiosi ... sed ... persone ... ut ... resolvitur ...

[illegible] ... de c. 4 n. 3 ... ... de Carmelitis sub Decisione d. ... ... hodie ... statuto per sacram congregationem cardinalium declaratum est ... ... Hierosolimitani sub decisione ... non posse ante decimum et septimum ... professionem facere et antea ... ut constare ... declarationis ... cardinalium ad d. c. 15 ad finem ubi haec verba ... 1592 censuit congregatio militibus ... solemniter ... statutis ... haec decreta ... Roboratur ... lib. 3 cons. ... in primo ... Doretti de regularibus consil. 23 n. 10. ... Azor instit. moral. lib. 13 c. 4 q. 9 2a ... Sanchez de matrim. lib. 7 disp. 44 n. 8. post ... in foro lib. 5 c. 4 n. 17 ... Narbona d. anno 16 q. unica n. 10 —

61 Octavo declaratur quod contra hanc professionem factam per decem et septem annos ... quibus ... statutis religionum ... regulas ... observantiam ... non posse professum ... ... matrimonium ... ... in quo minor non ... matrimonium ... post quatuor decimum annum ... communis resolutio ... ... in matrimonio ... ... lib. 1 c. 5 ... ... Pater Sanchez de matrim. lib. 7 disp. 37 n. 29 ... in decisione ... quam refert Narbona d. anno 16 q. unica n. 11 et hoc procedit non obstante quod in aliquibus religionibus in quibus ... vel restitutio ... nullitatis minor ... ... Pater Sanchez disp. 37 ... ... parte ... ... 11 parte c. 5 n. 5 ...

[illegible]

Item a professoribus [illegible] annum probationis [illegible] professo [illegible] annum a probatione [illegible] [illegible] vel monachi [illegible] ad professionem [illegible] professio tacita [illegible] in sacro Concil. Trident. [illegible] per annum post [illegible] in probatione [illegible] ad professionem [illegible] professio autem tacita facta [illegible] nulla [illegible] [illegible] annum probationis [illegible] professores [illegible] professio facta valida [illegible] [illegible] praedicatoribus et [illegible] quod [illegible]

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[illegible] per verba [illegible] et [illegible] [illegible] Doctores [illegible] Antonius [illegible] nu. 13 [illegible] Manuel Rodrig. [illegible] Sanchez [illegible] nu. 45 [illegible] nu. 9 [illegible] professo [illegible] [illegible] anno [illegible] probationis [illegible] annos [illegible] 10 nu. 7. —

Verum quia nostrum intentum est [illegible] probatione [illegible] nullitatem [illegible]

probat. [illegible]

[illegible]

[illegible] anni [illegible] incipere [illegible] decimo quinto anno inchoatum [illegible] regulares [illegible] ante [illegible] ab illo [illegible] habitum [illegible] glossa verbo [illegible] habitum [illegible] religione [illegible] et ego [illegible] debet illud [illegible] anno [illegible] et [illegible] illud facere [illegible] per [illegible] probatam [illegible] glossa verbo religione [illegible] fin. de professore [illegible] Sylvestro in summa verbo religio 2 q. 3 et verbo religio 5 q. 1 [illegible] verbo [illegible] lib. 3 [illegible] 1 n. 66 et 67 [illegible] moral lib. 12 c. 2 q. 4 n. 7 [illegible] Barbosa de officio ecclesiastico c. 42 n. [illegible] Sanchez in summa lib. 5 c. 4 n. 12 cum aliis relatis a [illegible] 19 q. 20 n. 1. Ex quo sequitur [illegible] anni novitiatus [illegible] anni [illegible] Barbosa d. c. 5 n. 7 [illegible] lib. 2 c. 41 [illegible] 4 n. 59.

65 Secundo notabis [illegible] annum [illegible] probationis quod [illegible] decimum quintum annum [illegible] procedit [illegible] professionem [illegible] professione [illegible] annus [illegible] de momento ad momentum [illegible] professionem [illegible] professionem probandum [illegible] annos [illegible] professionem

[illegible] completos.

66 Tertio notabis [illegible] annum [illegible] probationis debet [illegible] interpolatum [illegible] annum probationis [illegible] tempus [illegible] ad religionem [illegible] ad novitiatum [illegible] anno [illegible] tempori [illegible] novitius in religionem [illegible] plures doctores [illegible] vero [illegible] tempus [illegible] unius anni [illegible] debet [illegible] tempore [illegible] sed [illegible] verum [illegible] unus anni, verum [illegible] annum novitiatus [illegible] continuum non interpolatum [illegible] tempore [illegible] annus proba[illegible] integrum annum [illegible] integrum annum in probatione [illegible] tempore [illegible] propter [illegible] adversus [illegible] religiosis [illegible] in probatione annus inter[illegible] [illegible]

67 [illegible] continuum [illegible] anni tempus debet esse continuum [illegible] [illegible] glossa in [illegible] verbo [illegible] tempore [illegible] 1564 [illegible]

[illegible]

... professionis post unum annum nullatenus ... deficiente etiam animo quis ... [illegible] ... Gregorius ... Barbosa in d. c. 13 ... Miranda in directorio prælatorum q. 22 art. 4 ... hoc adeo verum est ut procedat per decisionem Concilij Tridentini d. c. 15 [illegible]

68 sequitur quod antea fuerit in aliqua religione ut est apud minores religiosos ordinis Sancti Francisci in qua antea ad nullitatem annus integer probationis [illegible] procedat et sit derogatum per expressam Concilij decisionem d. sess. 25 de regularibus c. 22 ubi hæc verba habentur: hæc omnia et singula in superioribus decretis contenta observari sancta synodus præcipit in omnibus cœnobijs ac monasterijs collegijs ac domibus quorumcumque monachorum virginum ac viduarum etiam illæ sub gubernio militiarum etiam Hierosolymitanæ [illegible] et sequitur non obstantibus eorum omnium et singulorum privilegiis sub quibuscumque formulis verborum conceptis ac mare magnum appellatis etiam in fundatione obtentis nec non constitutionibus et regulis etiam juratis atque etiam consuetudinibus vel præscriptionibus etiam immemorabilibus [illegible] in sensu quo verba sonant

[illegible]

69 gubernatio prælati [illegible] causa [illegible] cessante [illegible] causa [illegible] quæstiones [illegible] religiosus professus [illegible] in monasterio [illegible] obedientiam [illegible] præcepta [illegible] prælato [illegible] hoc sufficere videtur [illegible] Concilij quia nullo [illegible] obedientia prælatorum [illegible] præcepta [illegible] constitutiones religiosas [illegible] necessarium [illegible] residentia [illegible] in monasterio [illegible] decisionibus Sacræ congregationis Cardinalium [illegible] Miranda d. q. 22 art. 5 [illegible] Barbosa d. c. 13 [illegible] Cardinalium super d. c. 15 [illegible] hæc verba [illegible] anno probationis durante [illegible] professionem emittere [illegible]

Quarto [illegible] anno [illegible] in religione vel monasterio [illegible]

70 reddat [illegible] in eadem religione [illegible] professionem [illegible] non obstante quod per aliquod

tempus

[illegible]

Quaeritur [illegible] ... cum [illegible] habitu [illegible] quomodo illum probare [illegible] ... habitum [illegible] probatione [illegible] ... [illegible]

[illegible] ... post susceptum habitum [illegible] ... monachum [illegible]

Nec huic resolutioni obstat [illegible]

72 [illegible] ... ad monasterium [illegible] ... habitum [illegible] ... per triennium [illegible] ... habitum [illegible] ... [illegible]

[illegible]

Sexto [illegible]

73 [illegible] ... [illegible]

Septimo [illegible] ... probationis [illegible] ...

74 [illegible] ... [illegible] ... religionum [illegible] ... [illegible]

[illegible] ... plures Barbosa in decl. [illegible] c. 16 no 8.

Octavo notabis licet probationis annum [illegible] nullam professionem facere [illegible] regulares [illegible] consequentes [illegible] ad professionem [illegible] nullitatem [illegible] Marcus Antonius Cucchus major. instit. lib. 3 tit. 1 no 75, plures referens Barbosa in d. c. 16 no 9. Non tamen intelligas hoc causa nullitatem professionis [illegible] quod [illegible] annus [illegible] professionem [illegible] quidem [illegible] arbitrio [illegible] monasteriorum [illegible] prorogari [illegible] annus [illegible] professio [illegible] nullitatis causa [illegible] congregationem [illegible] probabilis [illegible].

76 Nono notabis quod durante quarto anno [illegible] nullitate [illegible] professionis [illegible] novitius perseverare velit [illegible] necessariam aliam annum probationis [illegible] professionem [illegible] novitius [illegible] annum probationis [illegible]

[illegible] professionem [illegible] decl. c. 16 [illegible] ad nullitatem [illegible] professionem [illegible] professionem [illegible] resolutum sub die [illegible] 1588 professionem [illegible] ad majorem cautelam [illegible] nullitate professionem [illegible] nullitatis causa [illegible] voluntatis professi [illegible].

77 Decimo notabis quod si quis ante annum probationis fuerit ad nullitatem professionis [illegible] nullitatis [illegible] professio fuerit declarata nulla [illegible] professionem [illegible] professionem [illegible] Marcus Antonius Cucchus major. instit. lib. 3 tit. 1 no 70 [illegible] professionem factam ante annum [illegible] ad profitendum

nulla

[illegible] ... professorem ... [illegible] ... professio fuerit nulla ... [illegible] ... secundum declarationem [illegible]

Undecimo notandum est quod [illegible] ... proprio ... ante annum probationis ... ad profitendum ... [illegible]

78

Duodecimo notandum ... [illegible] ... professionem facere ante annum probationis ... [illegible] ... anno 1570 ... [illegible] ... ante annum probationis professionem ... [illegible]

79

[illegible] ... professio facta ante annum probationis ... [illegible]

Ex quo primo sequitur ... [illegible]

Secundo sequitur ... professionem ... [illegible] ... testamento ... [illegible]

DIF 2 8 6

[illegible]

[illegible] succedere non [illegible] notitiam [illegible] [illegible] eodem [illegible] [illegible] [illegible] [illegible] [illegible] professione [illegible] Conimbr. 1a cap. 99 n. 3. —

Tertio sequitur quod quamvis verba propria [illegible] non [illegible] ordinis praedicatorum sancti Dominici [illegible] [illegible] [illegible] [illegible] [illegible] religiosorum religionum [illegible] [illegible] ad quorumcumque religiosorum [illegible] ordinem et se profiteri [illegible] verbis non [illegible] propriis [illegible] declarationibus proxime traditis [illegible] [illegible] [illegible] [illegible] in [illegible] praelatorum [illegible] art. 10 [illegible]

Quarto sequitur quod si [illegible] [illegible] professionem fecerit ante annum probationis [illegible] [illegible] [illegible] annum et [illegible] non posse professionem [illegible] [illegible] [illegible] fr. Emanuel Rodriguez [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 2a parte del estado de los religiosos c. 7 [illegible] [illegible] [illegible] [illegible] d. c. 15 n. [illegible] ad finem —

Decimosexto notabis quod omnia proxime resoluta circa annum probationis necessaria ad professionem [illegible] [illegible] quae [illegible] requiruntur in professione [illegible] [illegible] [illegible] doctores [illegible] [illegible] [illegible] annum [illegible] probationis requiritur in professione tacita [illegible] [illegible] [illegible] [illegible] tacite professus [illegible] debere esse [illegible] [illegible] [illegible] vel [illegible] ab [illegible] professionem per [illegible] in monasterio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] annum [illegible] professorum [illegible] auctoritate [illegible] [illegible] [illegible] et communiter [illegible] [illegible] professionem [illegible] [illegible] tacita professio probatur [illegible] [illegible] de regul. in [illegible] [illegible] 207 et [illegible] glossa eodem [illegible] de regul. [illegible] [illegible] de regularibus [illegible] n. 3 [illegible] quod [illegible] 99 [illegible] 3o et [illegible] [illegible] [illegible] requiri quod [illegible] [illegible] [illegible] ab [illegible]

[illegible]

[illegible] [illegible] tacita professio [illegible] [illegible] [illegible] professorum [illegible] [illegible] [illegible] professorum [illegible] annum [illegible] professionem et probaverit in religione [illegible] non [illegible] [illegible] [illegible] [illegible] professus [illegible] [illegible] [illegible] tacita professione [illegible] [illegible] voluntatem [illegible] [illegible] vel credat [illegible] [illegible] [illegible] [illegible] professionem per [illegible] [illegible] [illegible] [illegible] communem [illegible] [illegible] [illegible] proxime [illegible] [illegible] [illegible] quod [illegible] dixisse credo —

Decimo quarto aliis [illegible] [illegible] quod [illegible] professus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] religionis [illegible] [illegible] religionem et in [illegible] [illegible] [illegible] [illegible] [illegible] professus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] professionem [illegible] [illegible] [illegible] [illegible] religiones in qua tacite professus [illegible] per [illegible] [illegible] per annum et religione de quibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] requiritur in professione [illegible] [illegible] [illegible] [illegible] [illegible] probata [illegible] [illegible] [illegible] supra n. 1 [illegible] [illegible] [illegible] d. c. 19 [illegible] [illegible] professione tacita [illegible] [illegible] ut diximus infra n. 117

Quarta professiones nullae [illegible] [illegible] [illegible] [illegible] ante professionem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible] regularium vel [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nullitatis

80

81

82

[illegible]

... Sixti 5 ... Item Sixto ... anno ... 1587 ... statuit quod omnes puberes qui in religiones quascumque ingrederentur ... informationes de genere ... [illegible] ... Pontifici visum fuit sequenti anno 1588 hanc constitutionem reformabit dicens quod ... informationes ... per quatuor prelatos ... [illegible] ... constitutionem mutatam ... [illegible] ... professionem ... [illegible] ... Clementem ... anno 1597 ... [illegible]

[illegible] ... informationes ... constitutione ... [illegible] ... professionem ... [illegible]

S[illegible] satisfieri [illegible]
[illegible] nullam [illegible]
[illegible] intellectam per ipsum [illegible]
velius [illegible] expresso declarat [illegible]

[illegible] professionem annullare
[illegible] quo sub factum [illegible]
[illegible] declaratum [illegible] cardinalium
[illegible] ad professionem
[illegible] validitatem non quod [illegible]
[illegible] debere procedere dicta [illegible]
[illegible] quod [illegible]
[illegible] et vita vel de [illegible]
e professio sit nulla —

Quarto quia ubi actum nullitas non
[illegible] expressa et sub qua nullitatis
prohibitionem [illegible] intrat
vulgaris regula que tollit ab quando
aliquod prohibetur fieri si fiat
[illegible] quas [illegible] adducimus
n° [illegible] regulas [illegible] prohibita
[illegible] predictas [illegible]
[illegible] constitutiones et [illegible] religiones
peculiares leges non debere accedere
ad professionem [illegible]
predicta informatione —

Quinto facit [illegible]
de quibus proxime mentionem fecimus
fundantur in professione vel [illegible]
[illegible] in constitutione [illegible] 5. [illegible]
[illegible] ubi [illegible] quod quod [illegible]
impedimentum habent ad religionem ad
religionem [illegible]
[illegible] et [illegible] fraudem
[illegible] creditorum et ideo necesse
ad [illegible] predicta informatione
[illegible] que professione [illegible]
[illegible] ad [illegible] secundum [illegible]
[illegible] probatas nec
[illegible]
[illegible] obligationem [illegible]
dictas informationes, que [illegible]
[illegible] hec sententia [illegible]
[illegible] Emanuel Rodriguez regularium
questionum 3° tom. q. 59 art. 5 [illegible]
[illegible] Rodriguez in [illegible]
[illegible] regularium resolut. 101 n° 92 et
[illegible] Barbos. in loco [illegible]

Verum contraria sententia multo
verior est et tenenda [illegible] quod [illegible]
[illegible] ad professionem sine predicta
informatione [illegible]
[illegible] et de debitis [illegible]
[illegible]
[illegible] approbatione [illegible]
[illegible] liberam voluntatem [illegible] adire
professionem nulla nec [illegible]
[illegible] religiones [illegible]

[illegible]
[illegible] sub qua [illegible]
[illegible]

[illegible]
[illegible]
sed [illegible] quod [illegible]
[illegible] sicut [illegible]
[illegible] nec [illegible]
[illegible] verbum debere quevis [illegible]
rogat [illegible] prolata in [illegible]
[illegible] irritantem [illegible]
[illegible] nullum [illegible] glossa [illegible]
[illegible] de regul. [illegible] et plures [illegible]
[illegible] Barbosa [illegible] sententiam tener
[illegible] Thom. Sanchez de [illegible]
[illegible] 37 n° 30 [illegible]
[illegible] Thomas Sanchez in
preceptis decalog. 2° tom. lib. 5. c. 4. n° 61
[illegible] apud [illegible]
[illegible] 175 n° 3 [illegible] secundo quia
non fuit servata [illegible] nec [illegible]
[illegible] professorem debere
[illegible] 9 p. c. 2 n° 32 [illegible]
[illegible]
c. 4 [illegible] n° 14 [illegible] Barbosa [illegible]
[illegible] 3. p. [illegible] 101 n° 43
[illegible] verba [illegible]
in [illegible] sententiam [illegible] adu
[illegible] disputando [illegible]
[illegible] Emanuel Rodriguez [illegible]
[illegible] Barbosa [illegible] c. [illegible] 15 n° 7 [illegible]
[illegible] ad 50 [illegible]

Nec eam sententiam tenendo obstant
fundamenta prioris sententie, non primum
[illegible] non requirunt professionem
[illegible] sed professionem [illegible]
[illegible] contrarium [illegible]
est [illegible] substantia
[illegible] informationem [illegible]
et [illegible] ad [illegible]
[illegible] predicta informatione nec
[illegible] professorem
nec [illegible] admittendis [illegible]
[illegible] 5. verbis rogat [illegible] annular
[illegible] professionem [illegible]
[illegible] informatione [illegible]
ad [illegible] non posse —

Nec obstat secundum ubi [illegible]
non [illegible] verbis irritantibus
[illegible] clausula [illegible]
[illegible] ad [illegible] annular
[illegible] admi
[illegible] posse [illegible] nullitatis [illegible]
[illegible]

Nec obstat tertium ubi nullitas non
est declarata

[illegible]

[illegible] professorem [illegible] quod [illegible] est ad hoc ut dicta regula [illegible] non admittatur —

Nec obstat quantum ubi probabilio fundatur in praesumptione contra quam semper veritas praefertur nam licet illa praesumptio sit vehemens relevatur, ut est quod per aliam expressionem constet de veritate et ut constat ipso professo necessaria est contraria informatio de veritate quae constare debeat ante professionem nec sufficit quod postea per longum temporis intervallum a tempore professionis esse vagum et ita semper requiritur dictam informationem ex se in nullitatis ante professionis [illegible] est in quo casu fiat professio nec eam omittant —

Quod quidem informationis requisitum solum esse necessarium existimo in professione facienda in monasterio virorum per nostram rationem non vero in professione mulierum in monasterio monialium [illegible] defectu informationis monialis non probabitur nullitatem professionis nec contra [illegible] et ne [illegible] quia [illegible] illud statuit pro professione facienda in monasterio virorum et non dixit mulierum [illegible] homines frequentes solent vitam [illegible] vel nolunt mores habere [illegible] ad [illegible] mulieres quidem fragiles minus [illegible] esse natura datum [illegible] non adeo potens ut per vim [illegible] sibi [illegible] cum vita ne [illegible] ideo [illegible] informationis per sacrum concilium tridentinum praecessisse pro nullitatis professionis statuit quod ante professionem voluntas per ordinarium feminis explorent an sit libera nec esse nullitatem expressam si omittatur decidit d. concilium tridentinum sess. 25 de regularibus c. 17 [illegible] nec [illegible] professionem amittat quam explorabit [illegible] [illegible] vel ob [illegible] vel impedimento [illegible] aut aliquo eorum [illegible] ex [illegible] virginis voluntatem diligenter an coacta [illegible] sit [illegible]

[illegible] ex [illegible] regula [illegible] 12 [illegible] cum [illegible] [illegible] 41 [illegible] 3 [illegible] concilium [illegible] non [illegible] ante professionem et altera ante professionem et hoc esse rationem at concilium in hoc non [illegible] est quod semel ante professionem fa[illegible] resolvit fr. [illegible] praelatus de [illegible] monialibus [illegible] art. 4 [illegible] [illegible] nullitatem [illegible] fiat exploratio et omittatur [illegible]

In [illegible] praedicta [illegible] debet [illegible] quod non [illegible] professionem [illegible] non [illegible] 84 [illegible] in quo [illegible] gradum [illegible] quorum corporae [illegible] fuerunt [illegible] quod nullo modo debent admitti ad [illegible] professionem [illegible] vel [illegible] de dicta [illegible] professio fuerit facta nulla est ipso [illegible] nullitatem quam [illegible] ipsi professores et hoc [illegible] professores [illegible] quod non [illegible] professi [illegible] quod [illegible] Pauli 4 [illegible] 7 [illegible] 4 [illegible] Gregorii 13 quorum [illegible] est [illegible] professio [illegible] [illegible] sacerdotes [illegible] haeretici [illegible] [illegible] et similium [illegible] fuerunt [illegible] igni [illegible] [illegible] professio [illegible] professores [illegible] [illegible] nullitatem [illegible] professionem [illegible] [illegible] post monasterium [illegible] professores [illegible] [illegible] hoc non [illegible] nullitatem [illegible] [illegible] Lib. 3 [illegible] de regularibus [illegible] 26. et manuel Rodriguez regularium quaest. 3 tom. [illegible] art. 1 [illegible] fr. [illegible] art. 7 [illegible] videndus —

Simul cum [illegible] informatione [illegible]

[illegible] [illegible] de [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

59 [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] religionem vel vacationis [illegible] [illegible] profitentium professio sit invalida vel nulla [illegible] religiosi facere nullam professionem possunt [illegible] eandem [illegible] ac [illegible] a lege [illegible] [illegible] libere esse liberate [illegible] [illegible] [illegible] professionis nullitatem, [illegible] solutionis [illegible] [illegible] de [illegible] resolvimus supra l. 6 c. 13 qua [illegible] ubi circa ordinum receptionem diximus nullum effici posse clericum nec ad ordines sacros [illegible] nulli si fuerit [illegible] debitis vel vacationis [illegible] [illegible] publicum [illegible] principem vel [illegible] publicam et si fuerit de facto admissus [illegible] [illegible] quia in [illegible] [illegible] [illegible] characterem de nullitate [illegible] [illegible], non [illegible] [illegible] [illegible] de professione in religione quae [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] professio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Pater fr. [illegible] [illegible] et Pater Sanchez [illegible] [illegible] proxime [illegible] [illegible] [illegible] causa [illegible] [illegible] ideo quod olim fuit communi ante tempus Sixti V [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad religionem admitti [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] lege 1. [illegible] [illegible] [illegible] [illegible] c. 1 de obligat. [illegible] [illegible] [illegible] 4 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quod [illegible] de facto [illegible] ad religionem admissus [illegible] [illegible] [illegible] [illegible] nullius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Sixtus V anno 1587 per [illegible] [illegible] [illegible] [illegible] constitutionem statuit [illegible] [illegible] posse [illegible] [illegible] professionem [illegible] validam facere [illegible] nullam et invalidam [illegible] constitutionis verba [illegible] [illegible] [illegible] auctoritate apostolica [illegible] statuimus et ordinamus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] facultatem [illegible] gravati vel [illegible] [illegible] [illegible] obligati nullatenus [illegible] [illegible] [illegible] per hoc fiat in foro [illegible] [illegible] et [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 60 [illegible] [illegible] nullitate professionis [illegible] [illegible] quod [illegible] [illegible] debita [illegible] vacationis obligationis de facto admitti ad professionem nec [illegible] [illegible] [illegible] contrariam [illegible] vel [illegible] [illegible] [illegible] [illegible] vel acceptavit professionem [illegible] [illegible] contra [illegible] communis [illegible] et contra Sixti V decretum professio facta [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] proprio [illegible] [illegible] professio erit nulla [illegible] [illegible] [illegible] [illegible] communis de quibus [illegible] [illegible] quod hodie [illegible] quod antea erat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] professionem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Sanchez [illegible] [illegible] [illegible] l. 6 4 c. 1 [illegible] [illegible] [illegible] 19 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Sixti [illegible] [illegible] [illegible] [illegible] nullitatem [illegible] [illegible] professionem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] professionem. Nec [illegible] in contrarium [illegible] [illegible] [illegible] [illegible] [illegible] 15 n. 47 [illegible] [illegible] verba [illegible] Sanchez [illegible] [illegible] l. 5 c. 4 n. 61 [illegible] [illegible] [illegible] [illegible] [illegible] Sixti V [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] obligat. [illegible] [illegible] [illegible] [illegible] [illegible] quod in [illegible] [illegible] [illegible] professio nulla est [illegible] quod [illegible] [illegible] [illegible] Clement. 8 [illegible] [illegible] anno 1602 [illegible] proxime [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] religionem.

Quarto professiones nullas [illegible] quoties professio facta est mediante [illegible] [illegible] [illegible] [illegible] [illegible] vel [illegible] contra [illegible] [illegible] [illegible] voluntatem in religionem [illegible] [illegible] [illegible] [illegible] [illegible] contraria [illegible] [illegible] voluntas [illegible] [illegible] professionis [illegible] nulla [illegible] [illegible] [illegible] [illegible] communem [illegible] doctorum a [illegible] [illegible] [illegible] de [illegible] [illegible]

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[illegible] [illegible]

[illegible] melior [illegible]

[illegible] non ultra [illegible]

[illegible] voto de ratura [illegible] libera et spontanea et non solo [illegible] sed voluntarie [illegible] quod [illegible] nullitatis [illegible] ubi resolvimus supra lib. 6 c. 13 n. 13 [illegible] et non manum [illegible] quod [illegible] lib. 4 [illegible] professionem fecit [illegible] vim non videtur habere voluntatem nec velle professionem facit nec profiteri sed [illegible] professe nec vere consentit sed fingit consentire et [illegible] nulla est professio facta per vim vel metum [illegible] n. 75, 199 [illegible] lib. 4 c. 17 [illegible] Aragon 2a 2e q. 88 art. 3 fol. 988 [illegible] verbo [illegible] 2 [illegible] Valencia 2 [illegible] Rodriguez [illegible] lib. 6 c. 3 n. 12 [illegible] q. 17 art. 4 [illegible] in foro externo [illegible]

Quae conclusio [illegible] communis [illegible] professionis [illegible] libera voluntas [illegible] natura libera et non subjecta [illegible] consanguineis non [illegible] voluntate [illegible] intra claustra monasterii [illegible] contra libertatem naturalem [illegible] in Concilio Tridentino [illegible] professionis [illegible] professionem per ordinarium [illegible]

[illegible]

Congregationis [illegible] quod [illegible] debet esse [illegible] Secundo [illegible] Tertia [illegible] Quarto [illegible] Quinta [illegible] ut [illegible] Congregationis [illegible]

[illegible]

requisitus conc. l. c. 17 ... [illegible]

S[illegible]

... immoroste ... professum tenebit in ... gravorem ... vigint ... quere ... deffacere esse ... professo ... [illegible]

... professoris ... Ostendebit declaratio quod ... vel ... monasterio ... proceden[tibus] ... contra ... [illegible]

... declarationibus conc. l. c. 17 ... professio ... memoria ... liberam profitendi voluntatem habuisse.

Declaratur primo et procedat ... et habeat ... nullitas quae causatur ... non libera professione ... professione ... professio ... nulla et irrita est ... professionem ... dolus ... ad professionem ... [illegible]

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... professionem ... voluntatem ... [illegible]

... professio ... voluntatem ... non ... [illegible]

... professio ... dolus ... voluntatem ... contrahen[tis] ... professione ... [illegible]

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... l. 13 glos. 4a n° 19 ... professione ... dolus ... [illegible]

Quae quidem resolutio vera est quia ... nullitas professionis ... [illegible]

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... professione ... nulla ... [illegible]

... 99 n° 4 ... n° 13 ... n° 43 ... Hieronimus Gonçalez in ... [illegible]

[illegible]

Declarat 3. ut verb. quod ad anullandam professionem sufficit quaelibet qualitas [illegible] ... metum justum [illegible] ... professionis de sua natura requirit liberam voluntatem et omne id quod facit impedimentum dictae libertati causat nullitatem in isto casu [illegible] ... quae lo[illegible] ... liberae per verbo [illegible] num. 12 quia sicut [illegible] ... et non contrahendo voluntarium [illegible] ... ad professionem liberam requiri voluntatem dicendum est.

Nec obstat quod etiam in metu adest voluntas [illegible] ... nec absolute [illegible] ... anullatur cum coacta voluntas sit, et nam [illegible] ... voluntas [illegible] 21 [illegible] ... quod metus [illegible] ... voluntas [illegible] ... ratione [illegible] num. 15 [illegible] ... professione in qua adest metus voluntas adest et sic valere [illegible] ... professio per metum [illegible] ... contractus qui [illegible] ... voluntate coacta voluntas voluntas et contrahere [illegible] ... quod metus [illegible] ... in aliquibus contractibus non solum requiritur voluntas sed quod sit libera et non coacta et cum adest voluntas coacta [illegible] ... contractus [illegible] ... quod voluntas non est libera [illegible] ... libertatis [illegible] ... nullus [illegible] ... libertatis [illegible] ... verbo metus [illegible] ... professionem [illegible] ... requirentem voluntatem liberam non [illegible] ... libertatis [illegible] ... qualitas sit causa anullat.

Declarat 4. quod dicendum sit [illegible] ... metus reverentialis [illegible] ... inducendum ... ad professionem faciendam valere professio [illegible]

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... matrimonium [illegible] ... validitatem [illegible] ... requiritur per matrimonium carnale [illegible] ... quod inter doctores modernos [illegible]

[illegible] ... quod metus reverentialis [illegible] ... anullandam professionem [illegible] ... contractu voluntate [illegible] ... matrimonium [illegible] ... professionem [illegible] ... num. 3 [illegible] ... et 40 [illegible] ... matrimonio [illegible] ... professione dicendum [illegible] ... quod metus reverentialis sufficit ad anullandam professionem

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[illegible] ... num. 4. 20 [illegible] ... quarto [illegible] ... num. 4 [illegible] ... ad [illegible] ... 30 art. 2 [illegible] ... et hoc [illegible] ... professio [illegible] ... libertas requiritur [illegible] ... libera et spontanea voluntate [illegible] ... professione [illegible] ... quod [illegible] ... metus reverentialis [illegible] ... professionem [illegible] ... voluntatem contrarium [illegible] ... quia metus reverentialis [illegible] ... in [illegible] ... constantem virum [illegible] ... metus reverentialis [illegible] ... ad anullandam professionem [illegible] ... Pater Sanchez [illegible] ... de matrim. lib. 4 disp. 6 num. 17 et 18 [illegible] ... matrimonium nec professionem [illegible] ... reverentialem solum [illegible] ... num. 20 [illegible] ... metus reverentialis [illegible] ... anullandum matrimonium carnale [illegible] ... professio [illegible] ... quod [illegible] ... matrimonio carnali [illegible] ... professionem [illegible] ... Pater Suarez [illegible] ... lib. 4 c. 3 num. 20 et 26.

Quinto declarant ut contractum [illegible] ... gravibus [illegible]

37

[illegible]

[illegible] nuda [illegible]

[illegible] prouidentia

[illegible] ipso iure in excommunicationem [illegible] per Concilium Tri-

dentinum [illegible] constat in eodem Tridentino Con-

cilio sess. 25 de regularibus c. 18 ubi

[illegible] habentur anathemati subiicit

[illegible] singulas personas cuius-

cumque qualitatis vel conditionis fuerint tam cle-

ricos quam laicos saeculares vel regulares [illegible]

[illegible] qua dignitate fungentes si quo-

modolibet coegerint aliquam virginem

vel viduam aut aliam quamcumque mulierem

invitam praeterquam in casibus in iure ex-

pressis ad ingrediendum monasterium vel

ad suscipiendum habitum cuiuscumque reli-

gionis vel ad emittendum professionem [illegible]

[illegible] quibus vel ipsi et quae postea [illegible]

[illegible] in hoc casu certum communicatio-

nis [illegible] Primo quaelibet persona cuius-

cumque qualitatis sit per quemcumque modum

coegerint virginem vel quamcumque femi-

nam ad profitendum religionem [illegible]

vel metum [illegible] contra stabilitatem

Secundo incurrunt qui consilium auxilium

vel favorem quocumque modo [illegible]

vit ad professionem quae [illegible] contra

suam voluntatem ut constat ibi quique consili-

um [illegible]. Tertio omnes [illegible] susci-

pere habitum vel professionem facere contra suam

voluntatem et [illegible] praesentiam [illegible]

[illegible] incurrunt eandem excommu-

nicationem ut [illegible] quique [illegible]

[illegible]. Ultimo incurrunt qui [illegible]

[illegible] vel metum seu aliquibus simula-

tionibus ac fraudibus [illegible] libertate

vel impediere [illegible] voluntatem suscipien-

di habitum vel in religionem profitendi ut

constat ex [illegible] in eius textus

proposito et [illegible] cognitione [illegible]

[illegible] Barbosa [illegible] referen-

dum [illegible] nostrum [illegible]

[illegible] solemniter [illegible] esse

[illegible] quidem [illegible]

[illegible] d. c. 18 Concilii [illegible] in eo sta-

tuta [illegible] cogunt

viros sed solum ad cogentes feminas quia

intentum Concilii solum fuit feminas [illegible]

[illegible] vel metu [illegible]

[illegible] autem non sunt [illegible] subiecti

6

[illegible] fratres [illegible]

[illegible] scilicet [illegible]

[illegible] quod autem [illegible]

[illegible] minus [illegible]

in nostra [illegible] praxi [illegible]

ut [illegible] tam virginum quam mulierum [illegible]

[illegible] conventus [illegible] ordinem [illegible]

ad [illegible] apostolicum [illegible]

[illegible] licentiam [illegible] et rescriptum

[illegible] auctoritate nobilibus vel

nobili [illegible] religiosae [illegible]

[illegible] per triduum vel aliud tempus ad

arbitrium [illegible]

[illegible] libere eligere possit quod volue-

rit alioquin recurrunt ad supremum

Consilium ubi [illegible] regalis [illegible]

per quam committitur [illegible]

[illegible] vel [illegible] voluntatem

[illegible] intra triduum [illegible]

[illegible] revertendum [illegible] ad Consili-

um supremum [illegible] omni [illegible]

[illegible] libera voluntate [illegible]

[illegible] possit ad Consilium quam

praxim [illegible] admissam [illegible]

[illegible] circa quaestio-

nem d. c. 18 adducit [illegible]

[illegible] art. 4 conclus. 2 [illegible]

in praeceptis decalogi lib. 4 c. 4 [illegible]

et d. c. 18 [illegible]

[illegible] lib. 11 c. 9 § 4 vers.

[illegible] tom. 5 [illegible]

23 [illegible] n. 8 [illegible] institut. moral.

1 p. lib. 12 c. 5 col. 1160 [illegible]

[illegible] regular. 3 tom. q. 14 art. 3 [illegible]

17 art. [illegible] in praxi episcopali [illegible]

[illegible] verbo [illegible]

[illegible] remissive [illegible]

[illegible] ad Concilium Trident. d. c. 18 n. 1 et 2

[illegible] de [illegible]

[illegible] in prin. n. 195 et 197 —

De professione nullitas [illegible] quod

fiat [illegible] profitendi et nobilium

96 in [illegible] habeat animum

perseverandi et manendum [illegible]

in communi cum ceteris religiosis [illegible]

[illegible] monasterio morantibus quo pro-

fessores [illegible] consistit in libera vo-

luntate et [illegible] obligatio-

[illegible] ut [illegible]

n. [illegible] 92 [illegible] professione [illegible]

[illegible] liberam volun-

[illegible]

[illegible]

... voluntate et conformitate [illegible] ... adherenti [illegible] ... obligacion [illegible] ... contraria voluntate in [illegible] ... foro nobiliis professionem ...

97 ... necessarys et consequens vel [illegible] ... professio facta est secundum modos [illegible] ... prelatos [illegible] ...

DIF. 287 ... voluntate [illegible] ... professionem [illegible] ... animo contrario [illegible] ... voluntate [illegible] ... determinata non [illegible] professionem [illegible] ... professis [illegible] ... peccabit mortaliter [illegible] ... professionem [illegible] ... monasterii [illegible] ... foro [illegible] ... monasterium [illegible] ... in foro exteriori [illegible] ... confessore [illegible] ... absolvere penitentem [illegible] ... confessor dixerit [illegible] ... penitentem [illegible] ... periculo in foro exteriori vel quod

[illegible]

Sed [illegible] quod [illegible]

98 ... monasterii [illegible] professio [illegible] precedente [illegible] ... quod [illegible] ... professio clementis [illegible] ... professionem [illegible] ... monasterii [illegible] ... Doctores [illegible] ... professio ... debet fieri in manibus et authoritate prelati [illegible] ... professio contrahit obligationem [illegible] ... prelatus [illegible] ... monasterii [illegible] ... professio [illegible] ... sententiam [illegible] ... formo quidem [illegible]

99 nobiliis [illegible] ... precedant in manibus abbatis, priores, guardiani vel alterius presidentis in monasterio [illegible] ... professio [illegible] ... secundum [illegible] ... obedientiam [illegible] ... professionis [illegible]

[illegible]

... fuerint nulla ... Antonius ... ap. proxime lib. 1 c. 45 et 46 ... et ideo ... potest ... professionem ... professionis ... lib. 2 c. 41 dub. 7 n. 62.

Nona professionis nullitas est si fiat de futuro aliquod ... substantialibus ... obedientia, paupertas et continentia ... aliquo ex his nulla ... professio ... [illegible] Bernardus Lessius proxime l. c. 41 dub. 7 n. 62 ad finem ... Antonius ... n. 110 ... pluribus sequentibus —

101

Decima professionis nullitas est si in professione apponatur aliqua conditio repugnans substantialibus religionis, ut si quis profiteatur ea lege et conditione ut possit retinere bona propria ... arbitratu ducere uxorem et ... Lessius proxime d. c. 41 dub. 7 n. 63 ... doctores disputant ... materia ... nostro instituto ... faciamus.

102

Undecima professionis nullitas ... quod ... omnes ... singulis ... constitutionibus ... in qua professionem emittere vult et ... ad profitendum ... inhabilis ... nullitas professionis ... obligationes ... matrimonio ... impedimenta quae impediunt ... matrimonium

103

... partis ... et ... professionem ... authoritate ... contra quam non licet ... quam admittere ... Bernardus Lessius proxime d. c. 41 dub. 7 n. 64 —

In quibus nullitatibus illud advertendum ... quod ... cognoscere possunt ... causae probatae ad petitionem partis ... procedere possunt et ... professionem ... declarandam professionem esse nullam ... causae cognitione ... in foro externo ... quam interno ... possit ... quam voluerit ... professionem ... professa ... valeat adeo quod ... ordinibus ... impedimento impeditus ... uxorem ducere et matrimonium ... contrahere ... professio nullitatis ... generaliter ... quod ...

104

Sed ... professione in qua ... nullitatibus ... professionis ... quam ... causam ... perseveraverit ... professio ... nullitatis ... nullitate ... legitime ... [illegible]

105

... non

[illegible]

... in [illegible] sentiens hec [illegible] modo prohibere [illegible] ... [illegible] c 19 que hec verba ... quamvis regularis professi ... per [illegible] ... [illegible] aut etiam declarante ... professionem ... quod [illegible] ... quacumque de causa aut etiam ... professionem non audiatur ... quemquam tantummodo professio ... non obstante ... causas quas pretenderit ... [illegible] ... quod quacumque causa ... contra professionem ... [illegible] ... regularium ... [illegible] ... professionem ... ad [illegible] professionem ... [illegible] ... cedendo tradunt ... [illegible] c 12 nº 71 et in Commentario 4º de regularibus nº 71 et 75 ... [illegible] ... nº 71 et 72, 19 q 3ª ... [illegible] ... verbo professio § 2º ... Emanuel Rodriguez de regularibus 3º tomo q. 17 art. 17 ... [illegible] ... lib 12 c 4º ... [illegible] ... 12 nº 62 et 63 ... [illegible] ... lib 3º q. 2 ... [illegible] ... lib 7º ... 37 ... [illegible] ... Barbosa ad dictum Concilium Tridentinum ... c 19 nº 1 ... Barbosa ... lib 1º ... nº 30 ... [illegible] ... q. 30 art 1º et sequentibus. —

Circa dictum Concilium Tridentinum ...

... [illegible] ... professionis ... [illegible] ... professio nulla ... [illegible] ... professionis ... per quemquam ... professio ... [illegible] ... [illegible] ... professionem per quem [illegible] ... verba [illegible] ... [illegible] nº 64.

Dicit secundo ... Concilium Tridentinum c 19 ... quemquam non procedere ... [illegible] ... causa ... quemquam ...

107 ... [illegible] ... professionis ... [illegible] ... sententia ... [illegible] ... professio ... [illegible] ... professionis ... [illegible] ... per quemquam professionis ... [illegible] ... [illegible] ... [illegible] ... lib 3 q. 3 nº 68 et ... [illegible] ... professionis ... quacumque ... [illegible]

[illegible]

... 2° Dologe ... Barbosa ... quod ... in ... 4 n° 7 et alios ... sorarum ... d c 19 n° 21 ... Barbosa ... 1 n° 52 —

Dices forsan posse concurrere ... quinquennium ad reclamandum quando professus certo sciret et non ignoraret ex illa vel tali causa professionem fuisse nullam ... tempore ... quinquennii ... ut ... currere incipit quando scierit professus ignorans ... professionem esse validam ... non ... ratificare quia ... ratifica... professionem ... et ... libera ... ad inducendam novam obligationem et ideo oportet ut professus sciat professionem fuisse nullam et eam ... approbandi et ratificandi cum ... Thomas Sanchez de matrimonio lib 7 disp 37 n° 59 ... plures doctores ad idem ... graviorum ... 3 tom c 440 n° 22 et alios ... decissiones ... 3 ... quaestione 104 n° 16 ... Barbosa proxime d voto 15 n° 53 ... nos ... d lib 2 c 41 ... 7 n° 6 et plures ... doctrinis ... 128 ... et sequentibus —

Dices quarto quod si non ... quinquennium professionem nullam ... intra quinquennium reclamaverit ... ratificare ... professionem ... annum probationis ... quod ... debeat per annum perstare in eadem voluntate et post annum illam ratificare hoc maxime quando nullitas ... hoc ... non ... annos ... non ... necessarium est quod illa causa nullitatis

... nolle ... caso ... nullitas ... et ... ratificatio ... expresse ... professionem ... nullam ... professionem ... plures ... 12 c 4 q 9 ... in ... 2 tom c 5 n° 2 et c 8 ... 4 n° 5 et alios ... Thomas Sanchez de matrimonio lib 7 disp 37 n° 59 ... nullitate ... Barbosa d voto 15 n° 56 et sequentibus quod ego intelligo quando nulli... ... professiones ... probata et ... professus ... ratificare ... professionem ... annum probationis ... ratificare ... probationis quod ... quod ... tempus ... quinquennium intra quod concedit ... reclamandi ... professionem ... professionem nullam et non ... professionem ratificasse et ... religionem ... et ... annum probationis ... probat ... Sanchez d lib 7 disp 37 n° 24 ... necessarium ... annum quando ... professionem esse nullam et ... probabilem sententiam quod si nullitas ... tempore ratificationis ... lib ... non requiri ... annum ... probationis ... religione ... quod ... professionem nullam ... quod ... d c 19 ... in professione

[illegible]

111 [illegible] ... facultatem ... [illegible] ... professionem ... [illegible] ... consensus ... [illegible] ... matrimonio nullo postquam ... impedimentum ... [illegible] ... nullitate ... [illegible] ... Ferd. 37 nº 60 et 61.

Quod secundo adeo verum [illegible] ... nullitas [illegible] ... requiritur acceptatio praelati [illegible] ... professionem ... [illegible]

[illegible] ... Ferd. 37 nº 64.

Quod tertio adeo verum ut superior [illegible] ... professione ... [illegible]

112 [illegible] ... Ferd. 37 nº 66.

Quod quarto [illegible] ...

113 [illegible] ... Ferd. 37 nº 68 [illegible]

Quod quinto circa [illegible] ...

114 [illegible] ... professionem ... [illegible] ... impedimenta [illegible]

[illegible]

[illegible] et [illegible] proxime dicta [illegible] illa fore quae professionem causam [illegible] laicorum dispensationes [illegible] praedicta Decret. 7 n° 66. ideo licere esse pro [illegible] personam et numerationem vel supinam in authentico [illegible] glos. 12 n° 10 et 11 lib. 5 recopilat. tradit Pater Sanchez d. disp. 37 n° 25 sicut de aliquo quocumque impedimento pluribus superioribus relatis tradit Narbona in l. 20 glos. 6 n° 11 et 11 lib. 2 recopilat. et similiter si dicta impotentia reclamandi probaretur [illegible] quia in [illegible] religiosi et hoc verissime [illegible] fuerit praelatus [illegible] sicut [illegible] similiter causam personam impedimenti [illegible] non aliter nisi causas quas praetendit deducit [illegible] quae licet loquantur circa causas nullitatis etiam possunt intelligi circa causas impediendi [illegible] quamquam in impedimenta semper [illegible] accidentibus [illegible] [illegible] ut [illegible] Salvemus n° 71 vers. quinto [illegible]

Dices sexto habere facultatem reclamandi contra professionem nullam secundum Tridentinum d. c. 19 non solum procedere in professione expressa in qua sine difficultate loquitur concilium sed etiam in professione tacita facta sine solemnitatibus sed tantum ex voluntate profitentis [illegible] [illegible] professorum [illegible] professus impedimentum vel causam [illegible] tacitam professionem passus fuerit nulla [illegible] loquitur professione expressa vel tacita [illegible] concilium generaliter loquitur de professione nulla facta expressione an sit tacita vel expressa [illegible] quod [illegible] intelligi [illegible] expressa [illegible]

[illegible]

[illegible] esse tacitam vel expressam professionem [illegible] intelligi tam de tacita quam de expressa [illegible] generice loquens [illegible] [illegible] [illegible] [illegible] et obedientia cum pluribus [illegible] [illegible] [illegible] c. 10 n° 2 etiam [illegible] tacita [illegible] [illegible] in utraque [illegible] [illegible] quae fundamenta habere [illegible] Salvemus n° 72 vers. [illegible] quod [illegible] 199 [illegible]

Dices septimo decretum concilii d. c. 19 adeo generaliter debere intelligi ut omnibus [illegible] ut procedat etiam

118 in omnibus religionibus etiam sancti Joannis Hierosolymitani ut contra professionem allegari possit nullitas [illegible] [illegible] [illegible] facultas reclamandi [illegible] declarationem [illegible] cardinalium [illegible] declarationibus concilii [illegible] [illegible] c. 19 [illegible] [illegible] sancti Joannis Hierosolymitani [illegible] decreto [illegible] maxime quia [illegible] religiosi [illegible] [illegible] [illegible] [illegible] [illegible] Antonius [illegible] [illegible] [illegible] pluribus sequentibus et loquitur concilium [illegible] quod [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et sequitur Barbosa ad concilium d. c. 19 n° 3.

Dices octavo quod ad [illegible] impedimentum ut [illegible] vel professus

119 allegare possit nullitatem professionis [illegible] impedimento [illegible] impedimento quam postquam fuerit [illegible] quinquennium [illegible] [illegible] cum detrimento [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible] ... vestimenta quibus [illegible] ... argento legato l. penultima [illegible] ... Boyus in praxi b. 63 [illegible] n° 87 per praedicta [illegible] Robbart. in d. c. Statuimus n° 71 vers. quod —

Dices vero etiam habere resp. [illegible] l. c. 19 Concilii Tridentini [illegible] quam professus nullitatem [illegible] ... hodie est utroque [illegible] vel post illud etiam tempore quo ordines suscepit [illegible] impedimentum et causam qua professio [illegible] nulla [illegible] ... professionem et hoc ideo quia hoc nullo jure cavetur etiam quia susceptio ordinis [illegible] liberta et separata a professione ita separatis nullo modo [illegible] ... 20 ff. de minoribus l. [illegible] de [illegible] l. inter stipulantem 83 § [illegible] ... ff. de verborum obligat. l. [illegible] quidam 10 C. de donationibus inter [illegible] ... Brocardici [illegible] ... b. 2 § 2 glossa [illegible] n° 63 [illegible] ... n° 10 et in de [illegible] ... ordinum [illegible] voluntaria [illegible] ... nullitatem professionis in [illegible] ... causa nullitatis [illegible] ... rationibus [illegible] Robbart. in d. c. Statuimus n° 72 [illegible] 19 § 3 [illegible] ... d. q. 30 art. 1 vers. nec non [illegible] ad ordines et [illegible] ... patrimonio vel [illegible] ... lib. 7 d. p. 37 n° 43 —

Dices denique [illegible]

[illegible] ... professionem [illegible]

[illegible] ... n° 4, 5, et [illegible] Robbart. in d. c. Statuimus n° 73 et 74, 19 § 3 —

Verum quia diximus quod [illegible] quinquennio professum [illegible] impedimentum posse intra quinquennium [illegible] declarare [illegible] debere [illegible] ad tempus quo professus [illegible] ... impedimenti [illegible] ... quinquennium vel [illegible] ... quod impedimentum [illegible] ... quinquennium [illegible] ... quinquennium causa impedimenti [illegible] ... quinquennium [illegible] ... tempus secundum arbitrium prudentis viri [illegible] ... nullitatem professionis et [illegible] arbitrio [illegible] ... d. c. 19 [illegible] ... nullitate professionis [illegible] ... impedimentum [illegible] quinquennium [illegible] ... tempus secundum arbitrium prudentis viri [illegible] ... nullitatem [illegible] ... utraque quinquennium [illegible] ... professio nullitatis et hoc [illegible] ... quinquennium [illegible] ... lib. 7 d. p. 37 n° 34

Verum

[illegible]

Dices undecimo hanc recla[illegible] ... in Villalegaionem nullitatis professionis ... [illegible] ... coram ordinario ... [illegible] ... nullitate ... [illegible] ... sententiam ... [illegible] ... professionis ... [illegible]

Dices duodecimo hanc reclamationem ... [illegible] ... professionis ... [illegible] ... nullitatem ... [illegible] ... professio ... [illegible]

DIF 288

[illegible]

[illegible]

[illegible] cum [illegible] decimum [illegible] perpetuo [illegible] causam reclamandi [illegible] quia [illegible] fortitate [illegible] dimissa [illegible] perpetuo obligari [illegible] professionem [illegible] religionem [illegible] nullitatem [illegible] obligari [illegible] libertatem [illegible] quia [illegible] professionem [illegible] tacite [illegible] ratificatione [illegible] post [illegible] per [illegible] relatus et secutus [illegible] num. 77. 199 [illegible] 3° [illegible] per [illegible] q. 30 art. 6 [illegible] Thom. Sanchez de matrim. lib. 7 disp. 37 num. 41 —

126 Huiusmodi requisitum ut allegans nullitatem professionis debeat habere habitum religionis procedit quando [illegible] professionem [illegible] expressam [illegible] professionem [illegible] tacitam professionem [illegible] expresse [illegible] professionem [illegible] extra [illegible] [illegible] per [illegible] Congregationem Cardinalium [illegible] Concilium Trident. sess. 25 de regularibus c. 19 [illegible] verba [illegible] professionem [illegible] —

127 Dices denique [illegible] quod quamvis Concilium Tridentinum d. c. 19 [illegible] habeat [illegible] nullitas professionis [illegible] professionem [illegible] causam nullitatis [illegible] ad probandam causam nullitatis [illegible] Concilium [illegible] nullo modo admitti debere ad nullitatem [illegible] professionem [illegible]

DIF 289

[illegible] professionem [illegible] nullitatem [illegible] congregationis [illegible] secundum allegata [illegible] et [illegible] nullitatis [illegible] probabile [illegible] secundum communem [illegible] de [illegible] lib. 5 q. 4° art. 2° [illegible] quaestionem [illegible] q. 37 [illegible] prelatum [illegible] nullitate [illegible] decreto [illegible] Sanchez de matrim. lib. 7 disp. 37 num. 13 —

Dices denique quod Concilium d. c. 19 voluisse procedere contra eos qui veniunt contra professionem [illegible] nullitatem [illegible]

128 [illegible] perfectissimam [illegible] quod interim [illegible] de nullitate [illegible] propter [illegible] contradictionem [illegible] privilegiis [illegible] religiones [illegible] professionem [illegible] Concilium d. c. 19 [illegible] nullo privilegio [illegible] num. 76 [illegible] q. 30 art. [illegible] quod verba Concilii [illegible] quod allegans nullitatem professionis [illegible] privilegiis [illegible] religiosis [illegible] privilegiis [illegible] professionis [illegible] Concilium [illegible] quod verba Concilii [illegible] nullo privilegio [illegible]

[illegible]

[illegible]

Dices deinde quando professus religiosus post translationem [illegible] velle religionem [illegible] [illegible]

129

[illegible]

Deinde [illegible] religiosus professus translatus [illegible]

130

[illegible]

131

[illegible]

133

134

Dices tandem et ultimo pro complemento

Die 29.

[illegible]

[illegible] conditione [illegible]

[illegible] ecclesiae piarum causarum

clerici in eo conservantur foro [illegible] professus

non est religiosus nec [illegible] legibus

vel statutis religionis quam professus

sine scandalo [illegible]

[illegible] religione vel [illegible] nec

[illegible] nec in [illegible] aliquam

[illegible] religionis [illegible] non

[illegible] per [illegible] legitimas [illegible]

[illegible] potest [illegible] religione non

[illegible] monasterio [illegible]

[illegible] in seculo [illegible]

[illegible] et celebrare [illegible]

inter utrumque [illegible]

[illegible] Henriquez lib. 11 de matrim.

c. 6 in comment. [illegible] n. 9 in comment.

[illegible] verbo

religio n. 71 [illegible] sequitur

Pater Sanchez de matrim. lib. 7 disp. 37

n. 9 et [illegible] n. 20.

[illegible] n. 71 vers. [illegible]

non potest [illegible]

[illegible]

[illegible] omnino quae

[illegible] in materia [illegible]

[illegible] cum [illegible]

[illegible] doctrina [illegible]

[illegible] doctrina [illegible]

[illegible] ad [illegible]

[illegible] quod [illegible]

[illegible]

[illegible] monachus non est [illegible]

[illegible] religionis maxime in [illegible]

[illegible] videtur talem

monachum non habere [illegible]

[illegible] religionem [illegible]

[illegible] voluntatem [illegible]

[illegible] glossa

verbo [illegible]

[illegible] non [illegible]

[illegible] non quis in conscientia [illegible]

[illegible] obligatus nec in foro exteriori

[illegible]

[illegible] consensus [illegible]

[illegible]

CAP. 13.

1 [illegible]

2 D[illegible]

3 Executor [illegible] dispositionem alterius particulam [illegible] fuit.

4 Legatum relictum [illegible] per legatarium executori, [illegible]

5 Legatum pium [illegible] legatarius quem [illegible]

6 Executor [illegible] vel conditio solvendi legatum [illegible] fructus et commoditates [illegible]

7 Executor particularis [illegible] non habet commodum [illegible]

8 Executor legatum capit [illegible]

9 Executor et heres omittit legatum [illegible] ad implendam voluntatem [illegible]

10 Officium executoris est voluntarium [illegible] est necessarium

11 Officium executoris testamentarii est pium

12 Consanguineus executor nominatus [illegible] potest ad acceptandum officium

13 Ordinarius potest compellere executorem ad implendam testatoris voluntatem

14 Exemptus executor compelli potest per ordinarium non obstante exemptione —

15 Capitulum sede vacante compellere potest executorem ad implendam testatoris voluntatem —

16 Capitulum non succedit in his quae sunt episcopo de legato speciali [illegible]

17 Capitulum sede vacante succedit in jurisdictione ordinaria episcopi

18 [illegible] in sede in [illegible] facultatem

19 Jurisdictio delegata episcopi per ordinationem transfertur in capitulum

20 Capitulum succedit episcopo in jurisdictione continentiosa et voluntaria [illegible]

21 Capitulum per suos vicarios exequitur voluntates defunctorum —

22 Abbates et praelati jurisdictionem ordinariam habentes habent cohertionem contra executores testamentorum

23 Episcopus data negligentia executoris exequitur voluntatem testatoris praemissa monitione —

24 Metropolitanus negligente episcopo potest exequi voluntates defunctorum —

[illegible]

30 Laicus non potest procedere contra executorem ecclesiasticum
Ecclesiasticus judex potest procedere contra laicum in causis et legatis piis [illegible] judice laico
[illegible] Executor cogitur adimplere voluntatem defuncti [illegible] prohibetur a [illegible]
33 Executor quibus testator [illegible] potest solus [illegible] et tunc judex non potest executorem
[illegible] Executor [illegible] non [illegible] tenetur voluntatem defuncti exequi
35 Industria personae electae [illegible] executorem testamentarium [illegible]
36 Executio voluntatis defuncti et commissio aliis non potest per executorem testamentarium
37 Executor pium legatum exequendum aliis committere non potest
38 Executori dari non potest facultas [illegible] ut possit alium nominare
39 Executori data facultate alium nominandi [illegible] causas [illegible] c. [illegible] de testamentis
40 Executor nominari potest [illegible] data est a testatore facultas nominandi
41 Heres executoris non succedit in officium
42 Officium executoris extinguitur morte ipsius
43 Officium executoris [illegible] non fit ad successorem
44 Executore mortuo judex [illegible] succedit in officio
45 Executori a [illegible] vel episcopo [illegible] nominari alium executorem [illegible]
46 Rationem reddere tenetur executor [illegible]
47 Executor [illegible] facere tenetur
48 Episcopus [illegible] rationem reddere tenetur
49 Executor [illegible] rationem [illegible] reddere debet
50 Rationes executor reddere debet [illegible] testator [illegible] remittat
51 Rationes executor reddere debet [illegible] officio
52 Rationes [illegible] executor petere potest [illegible]
53 Contutor vel concurator an rationem petere possit
54 Rationes executor reddere debet de omnibus quae ad eum pervenerint [illegible] fit

57 R[illegible]
58 L[illegible] solvendo [illegible] praesens [illegible]
59 Executores quod [illegible] solvere
60 Rationes [illegible] quod [illegible] debent [illegible]
61 Executor an alterare vel mutare testatoris voluntatem [illegible] possit
62 Voluntas defunctorum mutari non potest nisi de beneplacito [illegible]
63 Legatum [illegible] non potest mutare [illegible] voluntatem
64 Commutatio facta per [illegible] causa [illegible] observanda est [illegible] praesumitur [illegible]
65 [illegible] commutando vel dispensando [illegible] valet
66 Testatoris [illegible] voluntas adimplenda est ante quam fiat commutatio
67 Episcopus [illegible] voluntas testatoris adimpleri non potest vel non fuerit utilis commutare vel dispensare [illegible] requisitis
68 Legatum pro [illegible] ardentibus [illegible] ordinibus [illegible]
69 Missas solemnes [illegible] commutari in non solemnes
70 Missae [illegible] possunt [illegible]
71 Alia [illegible] mutari [illegible] in reparationem ecclesiae vel [illegible]
73 Legatum pro ecclesia construenda [illegible] potest [illegible]
74 Legatum pro ornamentis ecclesiae [illegible] commutari [illegible]
75 Legatum ultra annum [illegible] distribuendum ante annum [illegible] potest
76 Legatum [illegible] quod adimpleri non potest [illegible]
77 Testator [illegible] potest [illegible] voluntatis [illegible]

77 Legatum

CAP. 13. DE EXECUTORIBUS TESTAMENTORUM.

Executorum materia [illegible] dicenda est de [illegible] plura congesta [illegible] quibus [illegible] locis [illegible] materia [illegible] executoribus [illegible] nostro [illegible] quo [illegible] executoribus generaliter [illegible] quae [illegible] executor [illegible] et [illegible] voluntatem [illegible] executores

1 [illegible] ad exequendam volun-
tatem testatoris vel ad exequendam vo-
luntatis ordinationem et dispositionem [illegible]
[illegible] generis executorum genus quo quicumque est con-
stitutus ad exequendam qualemcumque testa-
toris voluntatem proprie dicatur
executor testamentarius [illegible]
[illegible] legatarius [illegible] commissario quia
[illegible] ad
[illegible] modum [illegible] rebus relictis per testato-
rem [illegible]
voluntatem distribuatur. Executores
vero alii sunt [illegible]
[illegible] voluntatis testatoris [illegible]
[illegible] Alii sunt executores [illegible]

[illegible]

[illegible]

[illegible] nominatus [illegible] quedar a [illegible] palabra ubi haec verba habet, e si los testamentarios no quisieren cumplir la manda de la [illegible] los otros [illegible] la pueden hacer cumplir [illegible] que fueren o dar otros buenos para albaceas que la cumplan en lugar de aquellos. Nam verba [illegible] clara [illegible] habent dar otros buenos albaceas, nominar nombrandos albaceas, et similiter loquitur per verbum otros

2 quod est similium [illegible] vel legatus [illegible] Bartol. [illegible] de leg. 1 [illegible] 3a partida glos. fin. [illegible] tradit [illegible] doctoribus quae ipse congessit [illegible] glos. 4 n. 1. et [illegible] glos. 3a n. 22 plures referens [illegible] in l. 8a glos. unica n. 7 tit. 5 lib. 5 recopilat. et in l. [illegible] glos. 20 n. 101 tit. 1 lib. 4 recopil. [illegible] executores [illegible] instrumento [illegible] verbo [illegible] l. 7a verbo albacea [illegible] maxime [illegible] nostro [illegible] per [illegible] parte [illegible] valeat [illegible] nomen executor et [illegible] quod [illegible] per verbum executor [illegible] de [illegible] de executoribus testamentorum lib. 1 c. 2 [illegible] ante [illegible] testamentum glos. 28 n. 2 [illegible] quentibus —

Haec testamenta [illegible] executor [illegible] vel est

3 universalis vel particularis,

[illegible] testamentum [illegible] executor [illegible] personam [illegible] heredem [illegible] n. 3 [illegible] quod [illegible] quando [illegible] legata [illegible] heredes [illegible] Particularis [illegible] executor [illegible] quando [illegible] heres [illegible] prout [illegible] hereditatem [illegible] ab intestato vocatus et [illegible] ad hereditatem vocatus [illegible] tradit [illegible] n. 4 [illegible] de testamentis [illegible] glos. [illegible] n. [illegible] tit. 4 lib. 5 recopilat. [illegible] n. 2 et 3 [illegible] n. 247 n. 7 [illegible] Francisc. [illegible] de executoribus testamentorum lib. 1 c. 1 n. 48 usque 49 [illegible] nominibus vocari [illegible] executores [illegible] testamentarios albaceas [illegible] n. 51 [illegible] quod [illegible] executor nominatur [illegible] particularis [illegible] universalis [illegible] executor et [illegible] heredis [illegible] quod [illegible] testamento executore procedit quod [illegible] testamento executore

4 universali [illegible] heres [illegible] [illegible] vocatus [illegible] heredem [illegible] legatarium [illegible] executor [illegible] quando heres [illegible] legatario [illegible] legatario vel [illegible] executor [illegible] heredis [illegible] legatum vel [illegible] executor. [illegible] debet distribuere

[illegible]

Quo praemisso [illegible] procedit [illegible] legato relicto [illegible] haerede vel [illegible] universali [illegible] ad indicium [illegible] legatum [illegible] virginibus maritandis quos forte [illegible] quantitatem solvendam [illegible] matrimonium contrahant in hoc [illegible] quod si deficiat legataria per mortem vel [illegible] legatum pro [illegible] relictum [illegible] ad heredem vel testamentarium [illegible] universalem [illegible] testator in testamento relinquit quantitatem [illegible] maritandis [illegible] puellis [illegible] matrimonio copuletur [illegible] legatum [illegible] ad heredem vel testamentarium [illegible] testatoris nec ad heredem ipsius puellae pertinet [illegible] conditionem [illegible] nec puellae nec heredibus est debitum [illegible] maritanda [illegible] testatoris [illegible] legatum [illegible] puella [illegible] legataria antequam [illegible] conditio [illegible] puella [illegible] matrimonio copuletur [illegible] legatum [illegible] per mortem puellae ad heredem testatoris vel ad testamentarium [illegible] executorem generalem vel universalem [illegible] herede [illegible] hoc casu procedit [illegible] legatum [illegible] relictum sub modo ut [illegible] puella [illegible] solvatur quod [illegible] quando [illegible] puellae est relictum

6

[illegible]

[illegible] legatum [illegible] testator [illegible] testatoris voluntatem [illegible] ad heredem [illegible] legatum [illegible] puella [illegible] legatum [illegible] relictum est legatum [illegible] puellae solvendum [illegible] heredes [illegible] testatoris [illegible] puellam [illegible] legatum [illegible] testatoris [illegible] legatum [illegible] 249 [illegible]

Illud etiam [illegible] executore universali [illegible] testamento [illegible] relictum legatum [illegible] sub conditione solvendum [illegible] legatum [illegible] conditio [illegible]

[illegible]

[illegible]

...pro eo ff. de legat. 1° ... gorius in l. 15 de usufr. 544 n° 39 quod tenen... bus in executore particulari ubi hec ... in testamento est nominatus et ei potestas est data et non dum nec respectivum ad exequendam in re particulari vel ... voluntatem testatoris sine commodum ... ut ... labor ... temporis vel dam... ... quod non adimpleatur non ... utilitatem executoris sed ad heredem pertinet quia ille executor particulari ... nihil habet ...

7 ... consequi ... quam ... debet ... in l. si quis ... 17 ubi late glosa verbo ... l. ... 33 § ... de legat. 2° ... per ... in l. ... n° 1 ff. de adimendis leg. resolvit ... gregorius l. 15 d. de usufr. 544 n° 2 ... quidem ... in lege de ... legato in qua executori data est facultas exequendi vel adimplendi testatoris voluntatem non vero de alio ... testatoris voluntatem quia testator executori ... quodquam legavit hoc quidem ... ut ... executorem particularem ... et late plura congerens resolvit ... de executoribus lib. 6 c. 18 per totum. Quod adeo ... quod ...

8 ... testatore ... executori testamentario ... vel ... propria auctoritate ... quod necessarium sit quod ... ad heredem ... Bernardo ... 407 ... pares ... n° 3 ... ff. de legatis 1° nec ... contra hoc ... quod executor in hac parte sit legatarius et legatum ... ad ... non ... bendus est hoc emolumento ut ... resolutum supra lib. 4° c. 15 n° 7 ... communis et vulgaris ... laque ... testatoris in nominatione executorum data ... facultas

[illegible]

... plurimis ... res ... l. ... cum sequitur ... ff. de legatis 1° ... facultatem ... et ... posse ... legatum ... in nominatione executoris ... vel in persona habebat ... sed illa facultas ... potest executor ... auctoritate percipere ... sibi ... propter praesumptam testatoris voluntatem in quantum adesse in hoc ... praesumitur.

9 Hoc quidem ... legatum executori per testatorem ... licet ... aliud ... potest ... voluntatem testatoris ... ad ... ff. de ... verbo ... autem ... hoc ... de hereditatibus ... verbo ... autem ... l. ... C. de legatis l. si quis ... 12 ... ff. de ... l. ... ff. de ... l. ... legatum ... ff. de hered. ... l. ... 33 ... vers. ... ergo ... de executoribus ... hoc in ... C. de ... l. ... 10 ... qui non acceptat officium executoris vel qui acceptatum non adimplet voluntatem testatoris ... legatum ... commodum ... per plura ... congessit gregorius lopez in d. l. ... cardenas ... in ... joannes 19 n° 3 ... testamenti ... lib. 2 c. 1 n° 47 et ... hoc ... procedere ... resolvit ... lib. 2 c. 14 n° 15 ... in speculo glos. 28 n° 6 ... non ... defecit ... procedere ... procurator ... per ... vel ... per sententiam ... lib. 1 ... glos. 1 n° 30 et lib. 4 c. 4 lib. 5 ... joannes gutierrez de

[illegible]

... probationes sententiam ... [illegible] ... de jure ... [illegible] ...

... tamen ... ex quo relicta ... [illegible] ... n. 13 ... n. 14 ... [illegible] ...

... executor ... sanguineus ... propter ... actione officij executoris ... legatum relictum quod tamen ... de bonis ... voluntate testatoris ... voluntas ... legatum relinquere ... possessionem ... [illegible] ... sed hoc remanet 36. ff. de ... [illegible] ... alegavi ... Cardenalem ... de conjecturis ultimarum volunt. lib. 6. ... 16. n. 3. ... legatum ... de legatis 2. ... verum ob hanc sententiam ... interpretatione ... [illegible] ... propter doctrinam generalem quod ... sanguineus ... executor ... legatum est relictum ... non adimplevit testatoris voluntatem ... legatum ... [illegible] ... testatoris voluntate ... [illegible] ... officij ... [illegible] ... executor ... testatoris ... [illegible] ... 66. 2. c. 9. n. 10.—

Officium hoc executoris ... [illegible] ... voluntatis ... post acceptationem necessarium ... [illegible] ... ante acceptationem ... non acceptare officium ... compellendus ... compelli ... testatoris voluntatem ... [illegible] ... legendus ... [illegible]

... [illegible] ... voluntas ... [illegible] ... executores ... [illegible] ... que ... [illegible] ... del testamento ... [illegible] ... que todos ... [illegible] ... voluntad ... [illegible] ... cumplir ... [illegible] ... executor ... [illegible] ... [illegible] ... de ellos ... [illegible] ... usar del dicho poder que ... [illegible] ... voluntad ... [illegible] ... executores ... [illegible] ... executor ... [illegible] ... 37 ... [illegible]

11 ... [illegible] ... testamento ... [illegible] ... de testamentis ... [illegible] ... que cada uno del pueblo puede ... [illegible] ... voluntad del testador que ... [illegible] ...

... [illegible]

[illegible]

... conficere ... instrumentum ... [illegible] ... et sic ... professione ... in libro ... quae ... ubi ... propter ... executionem testamenti ... nominatione a testatore ... testamento ... quae ... contra ... commissa ... fuerit ... medium ... contractum ... non contrahere ... ministerium ... et adhuc contra officium ... testatoris voluntatem ... hereditate ... generaliter ... proxime relata ... 1ª parte ... quae ... introductio ... et ... cognitione ... voluntaria ... necessaria ... officium executoris a principio est voluntarium et postea est necessarium et procedi potest contra executorem ut adimpleat ... quod ... sententia ... plures ... de ... privilegiis ... privileg. 87 ... glos. ... n. 10. ... l. 14 glos. 1ª n. 30 et 4 ... sententiam procedere contra ... executor ... de ... pl. 1ª ... 2ª ... 24 ... n. 3 ... vers. quod ... 1 ... 17 n. 1 ... 19 n. 37 ... omnes et alii plures ... acceptatione ... officii ... executoris ... in testamento ... per ... non ... praesumitur ... officium ...

12. ... testatoris ... acceptatione ... ordinatione ... executoris ... officium ... legatis 2 ... executoris ...

[illegible] ... in ... ubi ... de ... legatis ... corpore ... l. 1 c. 15 n. 45 ...

Ex quo sequitur quod postquam ... nominatum ... acceptavit officium ... testatoris ...

13. ... ministerium ... executorem ... quod ... procedendo contra ... executorem ... testator prohibuerit ... in executione ... facit ... l. 17 ... Joannes 19 ... a ... pluribus ... de ... l. 1 n. 28 ... ut adimpleat ... voluntates testatoris ... quantum ... authent. ... c. 10 ... generalia ... legatum ... executorem ... Concilio Trident. ... sess. 22 de reformat. c. 8 ... quod ... testator prohibuerit ... intromittat ... voluntate ... non admitteretur ... prohibitio ... executores ... l. 14 glos. 1ª n. 48 et 4 ... 28 n. 20 ... 10 n. 1 ... l. 1 n. 29 ... 4. 2 ... c. 15 n. 45 ... et quod ... quae ... ordinatio ...

[illegible]

14 [illegible]

[illegible] n° 25 —

Sed [illegible] an capitulum sede vacante habeat hanc facultatem [illegible] testamento [illegible]

15 [illegible] primo [illegible] sede vacante in hoc potestate [illegible] primo [illegible] episcopo ergo non est ad [illegible] glosa verbo capitulum [illegible] de [illegible] contrariam opinionem — Secundo [illegible] sede vacante [illegible]

16 [illegible] sede vacante [illegible] de beneficiis [illegible] n° 42 [illegible] ergo non [illegible] in capitulum — Tertio [illegible] ergo [illegible] verbo capitulum [illegible] n° 4 et sequentibus [illegible] n° 78 [illegible] — Secundo [illegible] contrario [illegible]

17 [illegible] n° 14 [illegible] de [illegible] sede vacante [illegible] capitulum [illegible] verbo capitulum [illegible] de beneficiis [illegible] n° 4 [illegible] n° 10 [illegible] n° 30 [illegible] verbo capitulum [illegible] n° 10 [illegible] de beneficiis [illegible] n° 4 [illegible] n° 4 [illegible] n° 11 [illegible] n° 25 [illegible] n° 28. Sed hoc [illegible] ergo [illegible] capitulo sede vacante [illegible]

Colecto 4°

[illegible]

… et sta a [illegible] dominus … et pr[a]xi ea approbata … in sententie, … Pontdmatt … n.° 1 vers. sed ego puto … de testamentis … Valenc[ia] … n.° 3 eadem … et alios tradit … in d. c. … n.° 2 … glos. 2 … n.° 20 … in d. l. 19 glos. 1 n.° 47 et 466 … relat … et referens Saa in … verbo capitulum vers. … voluntatem … Pater … in … 2 p. lib. 3 c. 39 … approbatam … collegiatis … ampliando … et confirmando … familiaris … lib. 1 c. 15 n.° 45 et 49 cum aliis … capitulum … fundamentis … contraria sententia … lib. 2 c. 19 n.° 58.

Quam sententiam [illegible] non obstat fundamenta propriae sententiae adversae … ~~[struck-out lines]~~ … capitulum … voluntatem … capitulo … cum … ecclesiastica … sede vacante … disposit[io] … lib. 3 … capitulo … c. 9 n.° 137 … in capitulo … jurisdictione … sede vacante … n.° 3.

Nec obstat secundum fundamentum … sede vacante … competit [illegible]

[illegible] … que … sede [illegible] … competunt … de legato … sede vacante … pertinent … capitulo … sequentes … Trident. sess. 24 de reform. c. … de … in … delicto … concederetur ut eadem facultas competeret … capitulo sede vacante … concessa illa … ad … communem … doctrinam … intelligi … legatus … sede vacante … plures doctores … Garcia de beneficiis 5 p. c. 7 n.° 3 … Manuel Rodriguez … tom. 1 … n.° 28 vers. …

Nec obstat tertium fundamentum … jurisdictione … voluntate … verbo capitulum … fundamentum … doctores … jurisdictionem … sede vacante … sententiam … jurisdictione … Garcia … 5 p. c. 7 n.° 4 …

Quam jurisdictionem … capitulum … jurisdictionem … Trident. sess. 24 … n.° 51.

Inde … jurisdictionem …

20

21

18

[illegible]

[illegible] quae [illegible] ad [illegible]

[illegible] manum ut procedat [illegible] que [illegible] causa cum [illegible] vel prelati [illegible] ordinationem [illegible] de [illegible] nº 1 et 3 [illegible] communem doctorum sententiam [illegible] molina de [illegible] 250 nº 7 et [illegible] Barbosa [illegible] lib. 1 c. 17 nº 107 et [illegible] prelatos de [illegible] ex 4 [illegible] nº 47 [illegible] lib. 2 c. 19 nº 39

Superior quidem [illegible] et omnia quae [illegible] comprobationem dicta sententia [illegible] executorum ad exequendas voluntates defunctorum procedunt et debent regulari pro arbitrio [illegible] quia [illegible] cogi [illegible] executores vel [illegible] cogere [illegible] per [illegible] quia predicta voluntates [illegible] habeat locum et [illegible] executorum negligentia [illegible] quorum [illegible] fuerint per ordinarium et [illegible] fuerit [illegible] de [illegible] testatoris [illegible] executores [illegible] executorum [illegible] voluntatem defuncti et [illegible] esse [illegible] executorum [illegible] nº 1 [illegible] et [illegible] in hoc [illegible] probat [illegible] in authent. de ecclesiasticis [illegible] verss. quod [illegible] d. c. [illegible] 17 de testamentis [illegible] c. 8 [illegible] d. l. 7 [illegible] executoribus [illegible] lib. 1 c. 22 nº 21 et [illegible] executores [illegible] et [illegible] omnia [illegible] executores [illegible] glos. 5 nº 190 [illegible] 114 nº 8 [illegible] quod [illegible] c. 22

[illegible] contra [illegible]

[illegible] 1 nº 59 [illegible] 4 [illegible]

[illegible] et [illegible] voluntate [illegible] negligentia [illegible] in authent. de ecclesiasticis [illegible] et [illegible] archiepiscopus [illegible] metropolitanus [illegible] negligentiam [illegible] ad archiepiscopum [illegible] d. c. [illegible] nº 4 [illegible] nº 42 [illegible] c. 2 nº 77 [illegible] negligentiam [illegible]

et [illegible] voluntates defunctorum [illegible] in authent. de ecclesiasticis [illegible] quod autem [illegible] et [illegible] d. l. 7 [illegible] 30 [illegible] 4 [illegible] nº 4 [illegible]

[illegible]

I [illegible] per [illegible] quod [illegible] pare [illegible] contra [illegible] mentis eum solum competere [illegible] priores habent [illegible] ordinariam et [illegible] aliam judicem [illegible] quaedam [illegible] supra [illegible] n. 12 solum dant hanc cohertionem contra executores [illegible] ac judicibus laicis et concilium tridentinum sess. 22 de reformat. c. [illegible] tanquam apostolicae sedis legatis et [illegible] 10 [illegible] solum [illegible] facultas laicis judicibus competere [illegible] hoc [illegible] quae [illegible] judicibus laicis quam ecclesiasticis [illegible] sententiam contra [illegible] testamenti simul [illegible] dicens [illegible] esse [illegible] sententiam [illegible] in speculo glos. 28 n. 44 [illegible] quem [illegible] cathedram primariam regebat in [illegible] [illegible] plures [illegible] contrarium [illegible] esse [illegible] judices [illegible] cognoscere [illegible] executores testamentarios [illegible] et clericis [illegible] quod [illegible] modo cognoscitur vel [illegible] probatur vel [illegible] [illegible] vestros 50 [illegible] principali vel [illegible] auctoritate [illegible] [illegible] executores [illegible] competere [illegible]

[illegible] n. 10 [illegible] pro [illegible] sedes [illegible] contra [illegible] probari [illegible] laicos [illegible] consulta [illegible] [illegible] executores [illegible] ad [illegible] quod [illegible] executor est [illegible] volunt [illegible] executorem [illegible] judicis [illegible] sententiam [illegible] procedere [illegible] executorem [illegible] privilegio [illegible] privilegio 150 et in [illegible] [illegible] del Castillo [illegible] c. 36 [illegible] verbo [illegible] Fernandes [illegible] c. 5 [illegible] 665 [illegible] Covarr. [illegible] de testamentis [illegible] in politica lib. 2 c. 18 [illegible] n. 8 et 9 [illegible] [illegible] 12 13 et 14 [illegible] c. q. 44 n. 3 Caballos [illegible] de cognit. [illegible] q. 84 n. [illegible] [illegible] executores [illegible] lib. 1 c. 2 n. 1 [illegible] judices [illegible] vel [illegible] verba [illegible] c. 10 n. 9 et [illegible] quod [illegible] de [illegible]

Sed quod [illegible] executorem debere esse [illegible] contra eum pro

[illegible]

... voluntatem quae est ... per executorem ... hereditatem ad quendam dispositionem ... non necessaria citatio sed solum ... ordinarie tempore habili secundum juris dispositionem ad hoc ut judex possit ipse facere omnia et quoque ... compellere executorem vel heredem ut tradat ea quae sunt necessaria ad implementum voluntatis ... non sufficit executor intra tempus datum ... ad exequendam voluntatem testatoris illam non exequatur ... [illegible] ... in ... resolutione ... 251 n. 5 ... quam rationem ... procedere generaliter secundum regulas ... de quibus infra ... tempus datum executoribus ... intra illud adimpleant voluntatem testatoris ... non possit judex ecclesiasticus ... procedere ad executionem voluntatis testatoris ... cum ... [illegible] ... 22 n. 30, 31 et 32 ... lib. 9 c. 1 ... 4 et ... executoribus lib. 4 c. 1 n. 19 ... non procedant ad hoc ut executores ... adimplere quod ... a testatore est ... [illegible] ... c. 9 n. 13 et 14.

Sed proxime resolutioni illud obstat non posse judicem ecclesiasticum ... compellere executorem ... ad exequendam testatoris voluntatem ... subjectos ... jurisdictioni judicis ecclesiastici ... legem vel judicem laicalem ...

[illegible]

... resolutione ... de ... non ... quod in ... contra laicos et contra ... mandata ecclesiastica ... ad judicem ecclesiasticum ... saecularem ... causa ... jurisdictionem ... principibus saecularibus ... jurisdictionem ... obedientia ... de ... judex ecclesiasticus ... jurisdictionem ... habet ... et ... in ... quibus ... de ... intentionem ... resolvendum ideo judex ecclesiasticus habere jurisdictionem ... compellere ... adimpleant ... facultatem ... testamentorum ... sequentibus.

Quaequidem resolutio primo declarando est ut non procedat quando executores sunt ecclesiastici ... jurisdictione saeculari ... ratione ... ecclesiastici ... subjecti ... jurisdictionem ... saecularis ... jurisdictionem saecularem ... ut quod ... judex ecclesiasticus ... nullo modo ... procedat ... judice saeculari ...

[illegible]

[illegible] ratio debet esse debet in litate [illegible] posito [illegible] argumentum a contrario sensu probatur Gl. in l. vulgari [illegible] illud [illegible] ad legem aquiliam de qua mentionem fecimus supra proxime ante n. 17 cum [illegible] quod ecclesiasticus iudex non sit incapax ad cognoscendum de laicis executoribus [illegible] laicus iudex sit incapax ad cognoscendum contra clericos quod deducitur in ecclesiasticum iudicem [illegible] non debere ad iudicem secularem [illegible] sed melius ratio est ideo ecclesiasticus iudex cognoscere potest ecclesiasticos et seculares executores laicus vero solummodo potest cognoscere de laicis in rebus prophanis [illegible] executoribus [illegible] beneficionem cum ecclesiastico iudice [illegible] ratione vero piatis [illegible] legatorum [illegible] non convenit laicum coram ecclesiastico sed debet conveniri coram seculari [illegible] decis. 51, 78, 89, 112 et 215 tradit [illegible] de [illegible] d. c. 10 n. 2 ad finem [illegible] Bobadilla in politica lib. 2 c. 17 n. 105 [illegible] lib. 3 q. 29 n. 7, 8 et 14 tradit [illegible] de executoribus lib. 1 c. 22 n. 4 et sequentibus

31 Secundo declaranda est dicta resolutio ut non procedat quotiens legatorum [illegible] exequenda sunt per executorem [illegible] [illegible] sunt omnino pia et piarum causa relicta tunc [illegible] [illegible] nec executores [illegible] ad iudicem laicum sed est remittendus ad ecclesiasticum iudicem [illegible] iudex competens [illegible] Cobarr. in c. 3 n. 4 de testamentis [illegible] tradit [illegible] lib. 2 [illegible] c. 10 n. 2 et 34 [illegible] de cognitione [illegible] q. 84 n. 12 —

32 Tertio declaranda est superior resolutio ut procedat etiam si testator prohibeat ordinarium episcopum vel iudicem laicum posse [illegible] ad [illegible] cohercionem [illegible] [illegible]

[illegible]

[illegible] ecclesiasticus [illegible] cum [illegible] relatis [illegible] [illegible] [illegible] [illegible] de [illegible] d. c. 10 n. 2 [illegible] lib. 6 [illegible] [illegible] rationem executoribus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quod [illegible] sub colore voluntatis defuncti —

33 Quarto declaranda est ut tunc habeat locum ea iudicum potestas quotiens executor est simpliciter nominatus [illegible] testatorem [illegible] negligentia [illegible] testator executori [illegible] dicendo quod si non adimpleverit intra tempus sibi vel a iure datum exequatur [illegible] voluntas per alium a testatore nominatum tunc [illegible] executoris negligentia morte vel alio iusto impedimento [illegible] non acceptante [illegible] ordinarius [illegible] iudex non potest procedere quousque secundus [illegible] negligens [illegible] primus [illegible] Cobarr. in c. 3 [illegible] de testamentis [illegible] l. 14 [illegible] n. 45 ad finem [illegible] 4 [illegible] lib. 5 [illegible] Gregorius Lopez glosa [illegible] in l. 7 [illegible] tit. 10 partita [illegible] de [illegible] d. c. 251 n. 9 [illegible] [illegible] [illegible] quos [illegible] [illegible] executoribus lib. 1 c. 22 n. 3 [illegible] [illegible] ecclesiastico lib. 3 c. 17 n. 41 et [illegible] n. 42 [illegible] [illegible] [illegible] testamentis [illegible] lib. 2 c. 19 n. [illegible] [illegible] posse testatorem [illegible] primo executori [illegible]

34 Amplianda ideo est potestas procedendi per iudices ecclesiasticos vel seculares contra executores testamentarios

[illegible]

... ille 285 ... [illegible] ... de ... sub clericis faciat pro a sententia ... Trident sess 25 de re format ... omnium confraternias ad quos spectat ... expectant ... quod ... quia electus in dextra persone executoris tam facit ... ideo ... in d l nullus dicitur ... in dextra ... laude quam ... voluntate ac partes ... nec ... d c ... 17 de testament ... ipsa ... fidei ... plenaria ... predictos ... quando conscientia ... non posset ... ex ... in dextra persone executoris ... ipse solum adimplere officium executoris ... contra ipsos ... probabile ... sententiam ... speculatorum d glos ... n° 21 —

Quae sententia et resolutio ... per Primum et Secundum haec ultima voluntas non possit delegari nec committi ... executorem ... [margin: 36] ... debere adimpleri ... et confraternia ... in casibus nulla delegari vel subdelegari ... comissio ... d l nulli et ... plures quos refert et sequitur ... in prim ... probabilius ... Antonius Gomez ... 31 ... hic ... c. 4 ... plures quos refert et sequitur Joannes gravian reg. 124 in prim ... 48 n° 49 ... 43 n° 23 plures ... d c 19 n° 7.

Secundo ...

[illegible] ... d probabilius 31 ... d c 19 n° 2° —

Tertio ... ipse testator non possit dare facultatem et licentiam ... executori ... [margin: 38°] in suum locum ... substituere ... voluntatem ... executori ... propter ea ... reprobavit ... in Athico 32 ... l commi ... multiorum ... 71 ... l ... plures ... probabile 31 ad ... d c 19 n° 9 quod ... non procedit quando ... per ... testator ... facultatem ... executorem ... quod ... sententiam ... celeri ... lib 2° c 17 n° 80 Castillo ... lib 2° c ... d c 19 n° 11 quam sententiam ... doctorum ... Rodericus ... Valentiae ... Joannes gravian d reg 124 n° 3 ... Rodericus ... executor ... [margin: 39] ... voluntatem ... dispositionem ... voluntatem ...

q uidem

[illegible] quod [illegible] ex [illegible] in [illegible] a [illegible] tamen [illegible] [illegible] electionem commissarij alicui [illegible] [illegible] Val. [illegible]

[illegible] prohibitione [illegible] et [illegible] arbitrium in [illegible] substitutione [illegible] permittat [illegible] substitutione [illegible] dispositiones [illegible] non potest [illegible] quando [illegible] dat facultatem nominandi [illegible] [illegible] talis facultas data est nullum arbitrium nec voluntatem habet in dispositione testatoris [illegible] substitutione sed solum [illegible] nominandi [illegible] testatoris voluntas [illegible] valet [illegible] persona [illegible] data est [illegible] nominandi [illegible] cum quidam [illegible] de rebus dubijs [illegible] [illegible] 24 [illegible] 77 [illegible] de legatis [illegible] [illegible] [illegible] prelegata cum alijs [illegible] [illegible] valet [illegible] [illegible] electio non [illegible] de manu [illegible] sed [illegible] testatoris [illegible] voluntas [illegible] [illegible] [illegible] [illegible] testatoris [illegible] [illegible] voluntate [illegible] [illegible] 11 de testamentis [illegible] 48 nº 1 [illegible] de primog. lib. 2 c. 4 nº 4 [illegible] glos. 2 [illegible] quod verum est [illegible] lib. 5 [illegible] [illegible] testamento glos. 5 nº 12 [illegible] lib. 2 [illegible] nº 51 [illegible] nº 48 [illegible] proxime [illegible] 19 nº 12

[illegible] [illegible] [illegible] successio [illegible] ut proxime est resolutum [illegible] generali facultate [illegible] [illegible] heredem [illegible] [illegible] facultas [illegible] voluntatem testatoris [illegible] non potest [illegible] executore [illegible] persona [illegible] in heredem [illegible] [illegible] [illegible] [illegible] [illegible] persona [illegible] heredes [illegible] [illegible] executoris [illegible] heredem [illegible] [illegible] testamentis [illegible] [illegible] lib. 2 [illegible] 15 nº 76 [illegible] 124 nº 1 [illegible] d. q. 48 nº 127 [illegible] sequentibus [illegible] 10 nº [illegible] [illegible] 41 nº 109 [illegible] 114 nº 6 [illegible] de testamentis [illegible] 48 nº [illegible] [illegible] lib. 4 c. 12 nº 7 [illegible] [illegible] [illegible] lib. 3 c. 7 nº [illegible] sequentibus.

Unde sequitur quod [illegible] executor [illegible] non [illegible] officium nec [illegible]

[illegible] ad heredes ipsius executoris [illegible] [illegible] plures executores nominati [illegible] [illegible] cessat officium [illegible] [illegible] vel plures [illegible] [illegible] executoris [illegible] [illegible] probat [illegible]

[illegible]

... vel etiam quia ... executores nominati ... qui fuerunt nominati ... in testamento ... officium ... procedente tam ... declaratione omnes ... resolvunt ... supra diximus n° 33 non ... ad executores officium ... in ...

43 ... executoribus nominatis per ... non ... successores ... n° 14 ... delegati ...

Sicut ergo resolvimus proxime d. n° 33 de lata regula generali executorem sibi substituere vel plures succedere ... episcopum vel judicem ... per eorum praebendam ...

44 ... tot succedere mortuis ... episcopus vel judex ... secundum superius resoluta in ... quae ... proposito ... sententias ... nominandum esse ... legitimum alii vero per heredes mortui ... posse et alias opiniones sed tandem verior est doctrina ... probabiliter hoc officium executoris ... succedere judicem et ... executionem ... heredes ... Joannes de testamentis ... n° 10 ... relati ... Mede... n° 10 ... n° 47 et 48 ... n° 23 ... sequentibus.

Quanto ... prohibeo.

... [illegible] ... ipsi ... quae non est ... possit ... quaerenda ... quia ... n° 16, 17 ... fundamentis comprobare ... auctoribus lib. 1 c. 23 n° 3 ... aliqui sunt doctores qui contrariam sententiam tenent ... legatis ... eligere ... voluntate ... n° 6 ... defunctum ... doctores ... posse judicem nominare executorem, sed ... sententiam ... non obstante ... quia non ... executor ... heredes ... in legatis piis ... executor non nominatus ... proxime ... sequenti ... n° 4 ad finem.

Alii quidem aliam sententiam ... in quibus judex ... nominando per ... executionem ... legatis ... n° 4 ... n° 4.

Alii vero ... sententiam ... secundum ... sententiam quod ... judex non possit ... executionem committere ... secundum ... posse judicem ... per mandatum ... delegationem committere ... voluntatis ... sententiam ample ... n° 16 ad finem.

... [illegible] ... vel ... [illegible] ...
... [illegible] ...
... posse ... [illegible] ...
[illegible] ... vel ... [illegible] ...
... facere quod adimpleatur
ultima voluntas vel aliumque
... [illegible] ... quod ...
... facere ... arbitrio ...
... committere aliud ... [illegible] ...
... [illegible] ...
... communem sententiam ...
... [illegible] ...
... testamentos ... [illegible] ...
... quando ... [illegible] ...
... [illegible] ... vel
... [illegible] ... officium ...
... quod ... aliumque
... [illegible] ... et dare executores
... [illegible] ...
... herederos ... [illegible] ...
... n.º 42 ... probatur.
... l. 7 tit. 10 partida 6 ... testa-
mentarios ... cumplir la
manda del ... [illegible] ...
puedan hacer cumplir ... que ...
... o dar otros ... albaceas
que ... en lugar de ...
... verba ... puedan
hacer cumplir ...
que verba ... voluntatem ...
... [illegible] ...
... [illegible] ... per verba
... o dar otros ... al-
baceas ... posse aliumque
... [illegible] ...
... executor ... quidem ...
... [illegible] ...
... [illegible] ...
executor ... per se ...
... [illegible] ...
et ita resolvo quod ... qui
... [illegible] ...
... delegare officium executoris ...
... [illegible] ...
... [illegible] ...
... nominatis ... adimpleatur
voluntas testatoris ad hoc ...
... in d. l. 7 partite qui ...
non ... [illegible] ...
... [illegible] ...
... quod ... [illegible] ...

... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
que sea ... [illegible] ...
... para esto ... [illegible] ...
el obispo ... por ...
al juez ordinario ... [illegible] ...
... [illegible] ...
... generales ... [illegible] ...
... testamentario ... sentencia ...
... [illegible] ...
... [illegible] ...
... Paulus de Castro cons. 332 volumen ...
... [illegible] ... 4 ... 140 ...
4 ... communem ...
... l. 19 ... [illegible] ...
... [illegible] ...
c. 19 n.º 3 ... [illegible] ...
n.º 15 ... c. 45 n.º 3 ... n.º 31 ...
... [illegible] ... c. 3 n.º 18 ...
... Castro ... [illegible] ...
c. 2 n.º 1.

Ex quo sequitur ... [illegible] ...
... [illegible] ...
... [illegible] ...
... verbo ... l. 10 ... quod
intelligo de executore ... [illegible] ...
... [illegible] ...
de ... [illegible] ...
... [illegible] ...

Que sentencia ... [illegible] ...
... [illegible] ...
... [illegible] ...
... vel ... officium executoris
que ... [illegible] ...
... [illegible] ... verba
proxime relata ... partite ...
... [illegible] ...
ad id posse compelli ... [illegible] ...
... [illegible] ...
... [illegible] ...

[illegible] ad sequendam [illegible]

[illegible] ut disponit [illegible]

[illegible] in d. clem. [illegible] de testamentis [illegible]

[illegible] verss. quartus [illegible] Emanuel [illegible] tom. [illegible] q. 70 art. [illegible]

[illegible] in praxi fori eccles. [illegible] decis. 654 n° 1 et alios tradit in monacho [illegible] executo[illegible] ipsos rationem dare debet resolvit Barbosa d. c. 1 n° 2.

Tertio declaratur ut procedat haec obligatio reddendi rationes etiam si testator [illegible] prohibeat rationem reddi et quibuscumque verbis dicat nolo executorem compelli ad rationes vel aliquo [illegible] modo vexari vel inquietari sed do ei facultatem ut distribuat sine aliqua ratione nec ab eo [illegible] praedicta facultas a testatore concessa solum videtur remissa non rationis redditio sed [illegible] et curiositas [illegible] bonae fidei quae debet adesse in administratione [illegible] executoris nec impeditur [illegible] de dolo negligentia seu lata culpa quia [illegible] reddendi rationem [illegible] publico introductum est [illegible] [illegible] in proposita [illegible] quidam [illegible] a [illegible] administratores [illegible] in hac verba [illegible] publicum remittere [illegible] conventionibus nec mutare formam [illegible] constitutam [illegible] l. [illegible] 119 ff. de legatis 1° [illegible] a testatore rationes reddere non [illegible] consequitur [illegible] sed [illegible] negligentiae [illegible] fraudem [illegible] Bartolomeo Gomez Variarum 1° tom. c. 12 n° 33 [illegible]

[illegible] executor [illegible] Barbosa [illegible] n° 6 [illegible] 251 n° 8 [illegible] Barbosa de jure eccle. [illegible] c. 6 [illegible] n° 42 et sequent. —

Quarto declaratur ut procedat [illegible] obligatio ad rationes reddendas [illegible] ipsos administrationis [illegible] executoris [illegible]

51 [illegible] administrationem et [illegible] petitionem [illegible] rationem reddere et ad id compelli posse [illegible] de episcopo [illegible] lib. 4 n° 26 [illegible] et sequentibus [illegible] cap. 148 n° 6 —

Quinto declaratur [illegible] rationem reddere [illegible] procedat [illegible]

52 executores [illegible] administrationem [illegible] n° 64 [illegible] de rationibus [illegible] n° 70 ad finem —

Sed haec [illegible] solutio non est [illegible] et modo [illegible]

53 [illegible] 12 [illegible] 19 ff. de [illegible] administratione [illegible] rationem nullo modo reddere [illegible] ad [illegible] administrationem [illegible] l. adversus [illegible] administratione [illegible] ad [illegible] sub [illegible] verss. [illegible] administrationem [illegible] rationem [illegible] verba [illegible] rationem [illegible] dubia [illegible]

proxima

[illegible]

[illegible] in petitione rationum [illegible] ... [illegible] tutori vel curatori rationes petere [illegible] quam glossae sententiam [illegible] ... [illegible] c. [illegible] n° 11 quem in proposito [illegible] executorum [illegible] de executoribus [illegible] n° 49 et 51. [illegible] solutionem [illegible] permissum [illegible] ... [illegible] 94 [illegible] rationes [illegible] ... [illegible] executoris [illegible] ... administrationis [illegible] ... [illegible] executoris quam in [illegible] tutoris vel curatoris [illegible] 95 [illegible] ... [illegible] executore qui [illegible] testatoris [illegible] ... [illegible] tutore vel curatore [illegible] ... [illegible] tutore vel curatore non [illegible] in executore [illegible] ... [illegible] vel curatore [illegible]

[illegible] ... [illegible] administrationis [illegible] ... non communicet administrationem [illegible] ... [illegible] c. [illegible] n° 64 [illegible] c. [illegible] n° 51 [illegible] per [illegible] executorem [illegible] rationes administrationis contra [illegible] ...

Is autem cum fateatur sibi executor [illegible] administrasse rem testatoris, tenetur [illegible] reddere generaliter de omnibus rebus et pecuniis qualitercumque sint quae ad eius manus pervenerint, sive sint mobiles sive immobiles, et consistant in [illegible] et actionibus de quibus [illegible] in instrumentis vel scripturis [illegible] ... [illegible] 50 [illegible] ... [illegible] n° 29 [illegible] n° 43 n° 24 [illegible] ... c. 2 n° 11 [illegible] per executorem [illegible] ... administrationem [illegible] executor [illegible] ... [illegible] c. 10 n° 59 [illegible] ... [illegible] probari debent per testes vel instrumenta [illegible] ... [illegible] n° 14 [illegible] ... c. 20 n° 3 [illegible] c. 10 n° 47 [illegible] ... c. 1 n° 54 et sequentibus [illegible]

58

[illegible]

... glos. verb. ...

... sequitur Baldus ...

... quod ... testator ... possit ...

... quod ... iuramentum credendum esse ...

... testator ...

58

... praescriptio ... probabiliter ...

... in d. l. ... glos. ... n. 66 ...

... glos. 2a n. 1 ...

59

... quidquid ...

... n. 47 ...

... n. 31 ...

... glos. ... n. 19 ...

... n. 240 ... vers. ...

H[illegible]

... Bald. ...

... quod ... n. 39 ...

... quod ... executores testamenti ...

... testator ...

... quod ...

Non obstante et quod de ... executores testamentarios ...

61

... testatoris ...

quia

[illegible]

[illegible]

63 [illegible]

64 Vnde prosequamur de commutationes fa... per Sort. fieri sequentes prosequa... [illegible]

65 Principale huius facultatis ad mandandum defunctorum voluntates fundamentum est ut Sort. sit sibi Princeps ... [illegible]

antonio

[illegible] Valencia [illegible] 4 tom. [illegible] [illegible] Sanchez de matrim. lib. 8 [illegible] 17 n. 24 [illegible] de legibus [illegible] quod omnes alios [illegible] possit [illegible] dispensare [illegible] doctores [illegible] de lege [illegible] lib. 1 c. 19

Verum si voluntas testatoris non possit adimpleri in ea specifica forma propter necessitatem vel utilitatem vel quia urget necessitas, vel quia impedimentum [illegible] testatoris voluntas [illegible] voluntate non des[illegible] sed [illegible] testator [illegible] secundam voluntatem [illegible] non possit [illegible] auctoritate episcopi vel [illegible] commutare sequendo voluntatem secundam testatoris [illegible] ad [illegible] dispositionem [illegible] legato [illegible] Valencia [illegible] lib. 1 c. 14 n. 27 [illegible] voluntatis [illegible] post primam [illegible] [illegible] communiter doctores [illegible] [illegible] voluntas est in [illegible] servanda [illegible] eadem voluntas debet servari

[illegible] Valencia [illegible] causa necessaria [illegible] commutatio [illegible] quando impedimentum [illegible] causa necessaria [illegible] causa utilis [illegible] commutatio [illegible] [illegible] n. 26 [illegible] ex [illegible] causa et de ea praecedente [illegible] [illegible] fundamentis [illegible] [illegible] sententia quae [illegible] communem et in praxi servari [illegible] Concilio Tridentino sess. 22 c. 6 de [illegible] causa cognitionem [illegible] lib. 1 c. 14 n. 35 et 36 [illegible] Navarro [illegible] plures doctores [illegible] possit fieri commutationem de consensu patroni et auctoritate episcopi quando non potest [illegible] voluntatem [illegible] dispositionem testatoris [illegible] possit commutari [illegible] commutatio [illegible] considerationes [illegible] commutatione [illegible] [illegible] art. 4 [illegible] de legibus lib. 6 c. 14 n. 9 [illegible] [illegible] c. 15 [illegible]

[illegible]

... et doctorum auctoritate ... [illegible] ... fundamenta destruendo ... [illegible] ... ideo necesse est scripta repetamus ... [illegible] ... ad hoc dubium causam ... [illegible] ... quod valde dubitat ... [illegible] ... omnes doctores ... [illegible] ... quod legatum datum ad contrahendum matrimonium carnale ... [illegible] ... legatarius qui contraxit matrimonium spirituale per professionem in religionem solemniter factam ... [illegible] ... testator dicat lego do ... [illegible] ... ut matrimonium contrahat ... [illegible]

69

[illegible]

70

[illegible]

[illegible]

1 [illegible] quod [illegible] ... confessus ... [illegible] necessarius ... [illegible] heredes ... vel heredes [illegible] commutatione facile [illegible] a bono [illegible] Albotado de Conf[essoribus] et testamente de [illegible] lib. 4 c. 2 nº 7 [illegible] proxime d. c. 19 nº 26 —

Infertur quinto quod si [illegible] anniversarium [illegible] in aliqua ecclesia que in diruta reparatione [illegible] [illegible] eam reparari posset [illegible] ecclesie [illegible] de auctoritate [illegible] per aliquod temporis spatium [illegible] possunt, et [illegible] pro [illegible] anniversary debet reparari, ecclesie [illegible] Guillermo Benedicto in c. Raynutius verbo et aliquando nº 17 de testamentis [illegible] de Cala de [illegible] nº 29 [illegible] voluntas [illegible] per aliquod tempus [illegible] quod [illegible] possit [illegible] supradictis, a qua sententia contra Guillermum [illegible] [illegible] Cala [illegible] de [illegible] p. c. 1 nº 100 ad finem [illegible] sententia [illegible] commutatio vel [illegible] contineat utilitatem [illegible] quam [illegible] non derogatur substantie voluntatis [illegible] contraria [illegible] nº —

72

Infertur sexto quod si aliquis relinquat certam pecunie quantitatem pro construenda capella in quadam ecclesia ubi alie sunt plures capelle, ecclesia habet necessitatem pro [illegible] [illegible] utilitatem et idem si testator relinquat pecuniam pro [illegible] ecclesie [illegible] vel [illegible] aliqua ecclesie [illegible]

73

[illegible] de Cala [illegible] c. 14 nº 30 nº 31 [illegible] [illegible] relicta pro [illegible] in [illegible] [illegible] testatorem et in [illegible] [illegible] ecclesia [illegible] commutatio non [illegible] [illegible] est quia [illegible] testatoris [illegible] quod [illegible] non posset sed [illegible] supradictis —

Infertur septimo quod si testator relinquat pecuniam pro [illegible] [illegible] ecclesie [illegible] per multum temporis spatium [illegible] in quo [illegible] [illegible] ecclesia [illegible] ubi [illegible] est super mutationem [illegible] causa [illegible] de Cala [illegible] c. 14 nº 27 ad finem —

74

Infertur octavo quod si testator [illegible] certam quantitatem esse distribuendam inter pauperes post annum [illegible] quia voluntas testatoris non mutatur [illegible] [illegible] de Cala [illegible] c. 19 nº 31 —

75

Infertur nono quod si testator aliquid [illegible] [illegible] quantitatem [illegible] quod [illegible] impossibile [illegible] [illegible] non potest [illegible] testator [illegible] quam [illegible] [illegible] [illegible] debere [illegible] utilitatem heredis [illegible] [illegible] non est [illegible] quo [illegible] legatum [illegible] debet [illegible] [illegible] heredis [illegible] de testamentis ubi legatum [illegible] certo loco [illegible] non posset in alium locum [illegible] [illegible] legatum [illegible] [illegible]

76

[illegible]

Satisfaciat semper per voluntatem testatoris secundum esse sed unaquaeque persona [illegible] debet [illegible] quamvis [illegible] voluntatem [illegible] testatoris [illegible] [illegible] propter testator [illegible] [illegible] intra unum duos vel tres annos seu aliud tempus [illegible] quod [illegible] executor [illegible] velut in potestate vel [illegible] [illegible] non [illegible] quo usque [illegible] a testatore [illegible] [illegible] verba [illegible] de aquella manera [illegible] [illegible] testamento [illegible] [illegible] absolute [illegible] tempus [illegible] quod executor [illegible] secundum voluntatem intra [illegible] vel intra annum ut [illegible] [illegible] [illegible] [illegible] executores [illegible] probare coram judice [illegible] [illegible] implere in primo termino ut secundus [illegible] concedatur et [illegible] procedendum [illegible] [illegible] [illegible] executores in [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] executores [illegible] [illegible] testatoris [illegible] [illegible] [illegible] ut [illegible] supra lib 2 c 19 n 10 —

79

Ubi autem testator certa [illegible] [illegible] [illegible] [illegible] legatum vel a testatore [illegible] [illegible] causas vel [illegible] [illegible] [illegible] [illegible] adimpleri [illegible]

78

[illegible] legata quae [illegible] [illegible] [illegible] [illegible] voluntati [illegible] quod ego in lege non [illegible] [illegible] [illegible] ut [illegible] ex legato [illegible] [illegible] quod [illegible] non potest [illegible] [illegible] [illegible] vel [illegible] [illegible] arbitrio [illegible] in lege [illegible] [illegible] [illegible] [illegible] [illegible] legatum a testatore relictum pro [illegible] [illegible] [illegible] executorem [illegible] [illegible] annum [illegible] [illegible] arbitrio [illegible] [illegible] [illegible] voluntatis [illegible] legatis [illegible] [illegible] arbitrio [illegible] [illegible] ad executionem et [illegible] [illegible] [illegible] pro bono arbitrio [illegible] vel [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] voluntatis testatoris [illegible] [illegible] [illegible] quod nota ut non obstante [illegible] resolutionem proxime [illegible] —

Libero legato [illegible] [illegible] [illegible] [illegible] [illegible] intra annum adimpleri debet [illegible] executoribus ac heredibus ut testatoris [illegible] adimpleant [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] supra lib 2 c 19 n 9 —

80

Nec [illegible] obstat quod [illegible] voluntatem [illegible] executor non habeat annum [illegible] est adimplenda [illegible] [illegible] [illegible] [illegible] [illegible] nota [illegible] [illegible] 47 [illegible] 71 [illegible] legans [illegible] [illegible] legato [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] otorgamiento

[illegible]

... facultatem de ferendo ... auctoritatem ... praefiniendi ... tempus ... secundum ... Si executor vel he... ad id ... noluerit vel ali... causa fuerit ... potestatis ... adimplendi ... debent ... intra annum ... secundum quod ... colligitur quod ... sequitur quod ... anni ... non est ... arbitrio ... executor habeat tempus ... ad implendum legatum quam ... quod tempus ... secundum legat... quia ... facultates ... executorem ... adimplere potest tale tempus anni restringere ... arbitrio tempus ... intra quod adimplendum est a testatore ... si fuerit ... [illegible] non posset adimpleri mandatum ... impedimentum ... et de hoc ... vel judici ... tempus anni prorogare pro arbitrio secundum ... quaedam ... glos 1 nº 54 ... executoribus ... lib 3 c 1 nº 14 et 15 ... de ... lib 3 c 27 nº 39

Anni tempus quando currere incipiat ut executor ... per doctores ... non currere ... mortis testatoris vel ... post additionem hereditatis ... ad ... solvendum est quod ...

... vel ... herede ... probandum ... necessaria ad hoc ut valeant ... contrahendo ... lib 1 tt 4 c 65 ... verissima sententia ... quod ... testatoris ... aditio ... necessaria ... si en cargo tan grande ... porque non lo pudiessen luego cumplir deben ... que lo cumplan ... dos ... a lo menos ... hasta un año despues de la muerte del ... dor ... vel ... tale ... Et ... gregorius ... ver ... hasta ... despues de la muerte del ... dor ... de qua questione ... glos 28 nº 9 ... Ceballos ... communis ... 374 ... executoribus ... lib 3 c ... necessariam ... et ... arbitrio ... vel judicis ... executorem vel here... quod ... adimplet ... a testatore ... est ... certe ... monitionis vel ... contra executorem ... imponi posse ... quedan ... del testamento ... quam ... testamentarios ... quod ... executoris ... quis autem ... in authent. de ... Gregorius ... pactabo ... verba por ... los testamentarios cumplir lo man... dar que ... como ... a ... sobre ... providentiae ... quod ...

[illegible]

Carpio de [illegible] [illegible] gregorio [illegible] [illegible] 6 2º c 19 nº 13

Verum [illegible] ignorarit vel impedito [illegible] quod [illegible] a [illegible] curare [illegible] [illegible] velle quod curare [illegible] vel impedito, verum quia [illegible] nullum in jure ignorarit vel [illegible] [illegible] [illegible] [illegible] ignorantia [illegible] [illegible] in proposito [illegible] impedimentum [illegible] [illegible] Carpio d c 1º [illegible] nº [illegible] sequentibus [illegible] quod licet [illegible] [illegible] non sufficere tempus [illegible] ignorantia [illegible] impeditis [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible] ad mortem testatoris at quando agitur de [illegible] ponenda [illegible] executoribus [illegible] [illegible] [illegible] vel [illegible] [illegible] [illegible] habet [illegible] [illegible] executores [illegible] [illegible] vel proba [illegible] [illegible] [illegible] [illegible] [illegible] gregori [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Carpio d c 1º nº 22 [illegible] [illegible] [illegible] [illegible] [illegible] lib 6 3º c 27 nº 38

84 Ubi autem commode et sine impedimento [illegible] [illegible] [illegible] [illegible] ante [illegible] voluntas [illegible] [illegible] executores heredes [illegible] [illegible] [illegible] [illegible] hereditatis [illegible] [illegible] impedimento [illegible] non potest procedi ad legatorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] executori contra heredem vel [illegible] [illegible] [illegible] [illegible] [illegible] quod non [illegible] heredi vel executori [illegible] quod [illegible] [illegible] [illegible] [illegible] in tempus intra quod [illegible] voluntatis [illegible] [illegible] [illegible] [illegible] [illegible] procedit ad legatorum [illegible] voluntatis testatoris [illegible] gregorius lopez [illegible] [illegible] 6 glos [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] voluntati testatoris.

89 Et quem [illegible] [illegible] legatos y al [illegible] [illegible] mentorum quibus per testatorem [illegible] [illegible] [illegible] [illegible] [illegible] vel tempus [illegible] [illegible] vel judice datum [illegible] [illegible] ad [illegible] [illegible] a testatore impositos [illegible] [illegible] [illegible] [illegible] commoditatem [illegible] [illegible] [illegible] hereditate [illegible] [illegible] [illegible] lopez [illegible] [illegible] lib 6 2º c 19 nº 11 et 12 [illegible] sequentibus [illegible] [illegible] quidam testator [illegible] testamentum [illegible] quod vulgariter [illegible] testamento cerrado vel [illegible]

86 [illegible] in loco [illegible] [illegible] non [illegible] [illegible] [illegible] [illegible] et authoritate vel in [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] lib 6 [illegible] l 14 et lib 6 [illegible] hec verba [illegible] que [illegible] la [illegible] testamento [illegible] [illegible] alcalde [illegible] y el alcalde [illegible] [illegible] el [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testamento [illegible] aliquod commodum vel [illegible] [illegible] [illegible] aliquod commodum [illegible] [illegible] [illegible] testamentum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] l 14 ad finem [illegible] al qual [illegible] [illegible] el

testamento

[illegible]

... dicere est [illegible] ... debet [illegible] ... quando vero legatum est propter [illegible] ... cognoscere ... [illegible] ... Vndecimo [illegible] ... quod [illegible] legatum ... propter ... [illegible] ... judicem ecclesiasticum ... seculari ... [illegible] ... in alium ... pium ... [illegible] ... compilat. ... cl. ... [illegible] ... perdida ... que debe haber de la manda y de [illegible] el alma del difunto [illegible] ... legato ... [illegible] ... et ideo [illegible] ... Molina ... [illegible]

Sequitur in [illegible] ... [illegible]

88 [illegible] ... sententia [illegible] ... pendente [illegible] ... [illegible]

[illegible] ... ad pias causas ... [illegible] ... haeredes vel executores ... [illegible] ... testatoris ... [illegible] ... Molina ... [illegible] ... vtrumque forum ... [illegible]

Hec omnia [illegible] ... procedunt in foro exteriori [illegible] ... in foro interiori ... [illegible]

89 [illegible] ... debent voluntatem testatoris [illegible] ... peccat mortaliter [illegible] ... [illegible] ... legata pro ... [illegible] ... Molina ... [illegible]

Circa [illegible] ... quod [illegible] ...

90 [illegible] ... inter pauperes [illegible] ... testatoris ... [illegible] ... pauperes ... [illegible] ... vel opido ... [illegible] ... legatum inter pauperes ... [illegible] ... domicilij ... [illegible] ... testatore ... [illegible] ... voluntatem testatoris

[illegible]

Q[uo]d si [illegible] legatum relictum [illegible] pro [illegible] vere sint [illegible] [illegible] possit eligere [illegible] pauperes [illegible] in [illegible] posse executor [illegible] eligere filium [illegible] testatoris [illegible] nihil [illegible] habe[re] [illegible] modo non [illegible] vel [illegible] necessaria pro ali[mentis] et similiter si plures sint nominati executores inter quos unus eorum sit pauper [illegible] qui executores [illegible] [illegible] legatum [illegible] [illegible] pauperem et posse unum pauperem eligere et ei dare totum relictum si pauperes [illegible] vocati [illegible] [illegible] [illegible] valent et ille [illegible] [illegible] habet quidem executor [illegible] inter plures [illegible] [illegible] dum prudentis arbitrium de quibus [illegible] questionibus [illegible] plures doctores [illegible] [illegible] Gregorius Lopez [illegible] glos [illegible] l. 3. tit. 10 part. 6 [illegible] [illegible] d. l. 14 glos. 1. n. 11 tit. 4 lib. [illegible] [illegible] [illegible] verbo [illegible] n. 3. [illegible] [illegible] n. 3 [illegible] [illegible] [illegible] [illegible] 114 in fine [illegible] 16 n. 40 [illegible] [illegible] pauperem [illegible] executoribus lib. [illegible] n. 19 n. 66 et sequentibus, [illegible] quidem executor relictum pauperibus

92 dare et [illegible] virginem vel [illegible] pauperes et non habeant dotem [illegible] [illegible] non [illegible] [illegible] habeat quantitatem [illegible]

[illegible] quando [illegible] [illegible] [illegible] [illegible] quo [illegible] [illegible] [illegible] et [illegible]

Verum [illegible] dubitari [illegible] [illegible] executor possit legatum relictum pauperibus [illegible] [illegible] pau[per]

92 [illegible] [illegible] [illegible] [illegible] [illegible] vera quidem est [illegible] quod si pauperes sint nominati [illegible] patris [illegible] quique sint pauperes in eodem gradu paupertatis et concurrant [illegible] [illegible] non posset [illegible] sed [illegible] dare esse nominatis cum concurrant [illegible] quod [illegible] debet [illegible] [illegible] [illegible] [illegible] voluntas [illegible] [illegible] lib. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] vero generaliter sint pauperes nominati et ipse executor sit pauper [illegible] potest sibi ipsi [illegible] [illegible] [illegible] voluntate testatoris [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 3 et sequentibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 114 n. 8 [illegible] [illegible] in pauperem [illegible] [illegible] [illegible] [illegible] [illegible] n. 5 [illegible] [illegible] [illegible] [illegible] [illegible] quod [illegible] [illegible] executor [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] per quod [illegible] auctoritate [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] n. 11 [illegible] [illegible] quod [illegible] [illegible] [illegible] executorem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 61 quod [illegible] [illegible]

per [illegible]

[illegible]

bitramentum [illegible] ... pauperi non [illegible] generalibus legati [illegible] nullus fuit specificus [illegible] virtute dispositionis generalis [illegible] nullo respectu habito qualitatis paupertatis [illegible] l. cum quidam 24 ff. de legatis 2° [illegible] fuit [illegible] testamentum vel [illegible] vel post fuit [illegible] non posse [illegible] pauperem distribuere quam distribuendum [illegible] adversus [illegible] ff. de [illegible] lib. 2° c. 5 n° [illegible] molina de [illegible] tom. 3. tract. 2. disp. 594 n° 4 [illegible] de executoribus lib. 2° c. 19 n° 61 [illegible] testatorem [illegible] legato [illegible] testamentum [illegible] l. 88 § [illegible] ff. de legatis 2° [illegible] executor [illegible] testatori [illegible] pauperi [illegible] legato [illegible] l. 77 § [illegible] ff. de legatis 1 [illegible] 20 ff. de [illegible] testatorem [illegible] pauperem [illegible] vel [illegible]

Nec obstat quod testator [illegible] commisit [illegible] quod [illegible] arbitrio [illegible]

[illegible] legatum [illegible] facultate [illegible] pauperibus [illegible] tom. [illegible] 593 n° 7 [illegible] legatum [illegible]

19 [illegible] lib. 2° n° [illegible]

[illegible] executoribus quidem [illegible] inter pauperes [illegible]

94 [illegible] pauperi [illegible] lib. [illegible] ff. de legatis [illegible] 4° n° 31 [illegible] l. 9° glos. [illegible] n° 20 [illegible] inter pauperes [illegible]

Nec in hac distributione [illegible] inter pauperes [illegible] executor [illegible] pauperes [illegible]

95 [illegible] pauperes [illegible] executorem [illegible] pauperes [illegible] distributionem [illegible]

[illegible]

96 [illegible] quem est quod [illegible] traduntur certe res pro [illegible] ad pia [illegible] inter pauperes [illegible] ad implendam voluntatem testatoris [illegible]

[illegible]

97 Quod [illegible] in nostra materia [illegible] executores [illegible]

[illegible]

[illegible]

[illegible] in [illegible]

[illegible]

[illegible] eius ... haberet personam legitimam ad vendendum validamque esse venditionem ... [illegible] ... heredes ... venditorem ... verdictamen ... in illo herede arg. l. 2. ... quarto de creto ... maxime quia heres ... non potest ut executor non adimplevit voluntatem testatoris arg. ... l. ... 981. ff. de ... [illegible] ... executorem tradere omnia instrumenta ... ad rem venditam ... [99] ... omni tempore contra quem ... heredes ... [illegible] ... obnoxia secundum ... [illegible] ... resolvit ... venditori.

Cum heres in testamento nominatus ... [illegible] ... non posse vendere ... [98] ... [illegible] ... ex testamento ... [illegible] ... a testatore dispositum ... [illegible] ... executori ... valere ... [illegible] ... executor ... venditio ... nulla et invalida ... [illegible]

[illegible] ... testatoris voluntatem ... [illegible] ... 40 ... testamento ... [illegible] ... executorum ... heres ... adimpleatur dicta ... executor ... quia quoties testator in testamento ... herede ... [illegible] ... legatis 108 ... Bartol. et omnes Doctores l. cum pater 77 § ... legatis ... [illegible] ... heredes ... [illegible] ... 664 ... 36 ... [illegible] ... heredes ... [100] a testatore ... non executoribus sed heredi ... [illegible] ... legat. ... executores vendere ... testatoris non possunt, nec obstat ... [illegible] ... venditionem ... executorem ... legatum debet adimpleri ... [illegible] ... herede ... respondet ... l. ... herede ... in testamento ... heres

[illegible]

... seqq. Ricardo Bartolo et Torres ... d. l. ... Albericus ... Baldus ... fran. ... de testamentis ... in l. ... glos. 1 n. 11 ... 466 ... quod testatoris executor ... d. l. 29 ... —

Ex quo necessario sequitur quod ad hoc ut possit executor venditionem ... facere praecise heres debet ... ut adimpleat testatoris voluntatem vel ... necessario praestet adimplementum testamenti ... quod si ... verum ... heredita ... venditionem et contra heredem ... executor ... legat ... legat ... parte ... heredit ... legat ... de testamentis ... d. l. 14 ... glos. n. 13 ... quae ... executor ... bona ... pro ... Antonius Gomez ... n. 12 ad finem ... Hermosilla in d. l. 2 glos. 1 ... —

101

Nec obstat quod ... executores ... in testamento ... heredis ... voluntate ... testatoris ... quod ... ignorantes ... 4 ... de regulis iur. ... Covarr. ... 46 ... de ... Covarr. ... 97 ... clausula ...

[illegible]

... ad hoc ut ... venditionem ... executor ... possit ... ad hoc ut ... voluntatem testatoris ... executoris ...

102

... ad hoc ut compellat heredem ... in tali venditione quod si ... possit executor ... verum ... Baldus ... in d. l. 14 glos. 1 n. 10 ... 466 ... —

Nec dici potest ... heredem ... executor ... heredi ... potest et debeat facultatem ... ad ... executor ... testatoris venditionem et hoc uno ... quia potest heres ... executori ... voluntatem testatoris ... legato ... testatoris voluntatem ... Secundo ... heres ... venditione et in ... voluntatem ... legat ... executoris venditionem ... executor ... venditionem ... heres ... praecedente ... heres ... executor ...

103

necessario

[illegible]

... vel regie fuere heredis ... in d. l. ... quod ... in defensione ... Castro

104 in l. eq. ... dum esse ... quando ... vel conveniri ... vel renunciare ... authoritate ... pedreiss ... et ... data a ... executoribus ... ad verdendum ... quia ... non ... possessionem ... non ... herede ... ptore ... praterea ... verdictorum et ... procedere omnia ... verdi... per executorem ... de ... illa ... et verdicto ... facta cum authoritate pedreiss ... contra ... in loco ... quidem Bartolu ... in d. l. a ... heredes ... quentibus ... de Albertis ... legatis quem ... plures ... contra ... conveniorem ut ... et ... verdicto ... executoris ... contra ... et posse heredem agere contra ... illa ... ultra alios Antonius Gomes Varia ... tom 1 c 12 n 12 vers ... ad ... Cabedo ... in d. l. ... gravaminis deceptionum 2 tom c 29 n 27 et 31 et alios plures. Verum tamen ... authoritate pedreiss et cum facultate ... data ... executor ... verdicto non ... nulla ... quando executor non ... solvendo ... verdi... contra executorem ... petendo damna et ... contra ... et ... deceptus ... potestate ... data ... executoribus et ... de ... doctrina ... Castro in l. ... de procura... in ... de ... pignorum l. 1 ... verdicto pignore agatur ... contractus l. 49 ... in quibus heredis ... facultatem verdendi pignus ... solvendo et verdicionem ... nulla ... debitoragere ...

[illegible]

... 1584 ... verdi... praterea ... 3 c 3 ... ad ...

A Deo verdicto ... hereditatis ... executoribus ... in loco ...

105 ... quid ... nullo ... ad verdi... authoritate ... pedreiss ... et conveniri heredis ... Bartol. in d. l. a ... de Albertis et ... legatis ... Partordi quod ... 1308 ... n 4 ... intelligerem procedere ... verdus ... de ... authoritate ... necessaria est licentia pedreiss ... heredes ... habere ... verdicto ... solvendo ... ab ... hereditatem ... heres ... quia ... quod ... solvendo ... per heredem vel filium ... debere ... plures heres ... pro ... 14 ... omnibus ... vata ... lib 12 cap 10 n 9 ... Gabriel ... lib 1 c 25 n 42 et 43 —

Et quidem regula et doctrinage ... executor nec verdicionem ...

106 ... licentia et authoritate pedreiss et ... conveniri et ... heredis ... in d. l. a ... heredis et Bal... de Albertis ... legatis ... cons 84 n 3 ... Gregory 15 ... 179 n 3. Contra ... executorem ... particularem ...

[illegible]

107 [illegible] valere [illegible] plenarie [illegible] propter [illegible] pretium in [illegible] venditionem [illegible] resolutio [illegible] venditionem [illegible] valide [illegible] emptoris [illegible] venditoris [illegible] [illegible] facultas [illegible] fidejussoribus [illegible] prout [illegible] debet [illegible] cum [illegible] parte emptoris [illegible] fortassis quod in [illegible] quae sententia [illegible] habet [illegible] non autem [illegible] vendere [illegible] executoria [illegible] [illegible] non tamen [illegible] sicut [illegible] heredes [illegible] ad [illegible] respondere [illegible] esse [illegible] Baldus in l. [illegible] n. 25 [illegible] Angel. [illegible] in d. l. 14 glos. 1 n. 35 ad [illegible] lt. 4 lib. 5 recopilat. plura [illegible] quaestione [illegible] fundamenta adducendo [illegible] [illegible] alegat. 1. n. [illegible] quod resolut ad [illegible] vendendo [illegible] d. lib. 3 c. 3 n. 33 et [illegible]

Nec contra hanc resolutionem obstat [illegible] vel [illegible] legata vel [illegible] vel a [illegible] procedere [illegible] liberandi [illegible] ad hoc [illegible] creditores [illegible] requiritur quod [illegible] in solutionem legatorum vel [illegible] non respondetur quod illud [illegible] creditorum [illegible] obligata [illegible] propter obligationem realem [illegible] adversus [illegible] solutionem in [illegible] sententiae [illegible] adducendo [illegible] alegat. 1. n. [illegible] sequentibus.

In hoc venditionis facultate [illegible] datur in casibus in quibus [illegible]

[illegible] quam [illegible] quod [illegible] ad [illegible] non [illegible] venditionem [illegible] [illegible] praesertim de quo [illegible] Bartolo et communiter Doctores in [illegible] [illegible] in d. l. 14 glos. 1 n. 35 lt. 4 lib. 5 recopil. [illegible] exceptionem [illegible] c. 32 [illegible] n. 34 [illegible] in l. 2 glos. [illegible] n. 36 et 7 lib. 5 recopilat. [illegible] in d. l. 2 [illegible] glos. 1 [illegible] 23 et [illegible] n. 2 [illegible] non procedere in executoribus [illegible] heredis [illegible] habere [illegible] loco heredis et habent liberam [illegible] et procuratores generales [illegible] et generali administratione quod [illegible] de [illegible] non solutio integro pretio rei [illegible] in [illegible] veneditio [illegible] vendendo [illegible] alegat. 1. n. 14 [illegible] lib. 3 c. 3 n. 42 [illegible] procedit [illegible] in publica [illegible] non valet [illegible] venditionis valere [illegible] probat [illegible] in [illegible] glos. 1 n. 33 et 34 in d. l. 20 [illegible] sequentibus [illegible] in quibus venditionem [illegible] praesertim [illegible]

Executores habentes facultatem ad vendendum [illegible] resolutiones [illegible]

109 [illegible] in executoribus [illegible] loco heredis et [illegible] in [illegible] vendere [illegible] executor [illegible] [illegible] quod [illegible] executor [illegible] clausula [illegible] in [illegible] lt. 14 [illegible] que [illegible] todas las [illegible] que el señor podria

[illegible]

... l. 6 63° c. 5 n° 5 ... sequentibus

Ad hec pro officium executoris ... peti[illegible] ... qui creditores de-

110 functi et ad ... legatarii ... voluntas ... executores ... legatarii vel alii habentes ... legatis in testa- mentis ... procedere et exe- qui executores compellendo ... ad solven- dum vel voluntatis implementum vel si cre- ditores defuncti ... contra executores agere, et ... dicendum quod si executor est universalis ... est ... et habetur vice heredis tam ipse contra debitores quam creditores vel legatarii contra ipsum agere ... ut ... Barbos. ... Salgado ... l. 6 2° c. ... 3° p. e. 9. 3 n° 8 ... de protectione ... 9. 29 n° 8 ... Gracian ... c. 329 n° 3 ... Barbos. ... l. 6 3° ... si vero ... executor est particularis ... nec ... nihil ... executore ... non compelli ... contra ... nihil ... dispositiones ... in d. l. 14 glos. 1 n° 32 et 4 l. 6 5 ... Gracian ... c. 329 n° ... glos. 1 a n° 7 ... et 5 parte ... libro ...

111 Et alia quidem ... dicere ... defuncti ... executorem ... testamenti ... ad ... executore ... quod si executor fuerit par- ticularis ... heres ... nullo modo ... executor ... et ... testatoris

... persequi ... l. 29 si quis erat heres 49 ff. ... c. ... l. 6 5 n° 5 ... Fernandez ... l. 14 glos. 1 n° 33 et 4 l. 6 5 ... in questionibus ... Gutierrez ... l. 32 glos. ... n° 21 et 5 parte ... si quando ... executor universalis ... legatarios ... quod ... executores ... heres vel ... executor ... vel ... executori ... l. 32 glos. ... Aliqui ... sententiam ... testamento ... universal ... heres ... d. l. qui erat heres ... 49 ff. ... obligados ... la verdad ... executoribus l. 6 3° c. 3 n° 71 ... non obstante fundamento ... executores ... heres ... universales ... Nec obstant verba legis ... universal ... executores ... primo ... executores ...

[illegible]

... venditione testator ... Executor ... verba ... l. 62 ... emptor ...

... heres ... bona hereditaria ... executor ...

... emptor ...

Ut ergo venditio facta per executorem ...

112 ... substitutis ... universalis ... heredes ... pupillo vel curatori ...

... executoris ...

[illegible]

... facultate vendendi ... per testatorem ... executori ... testatorem esse ... substitutionem ... fraudis ...

... Covarr. ...

... facultatem datam ad vendendum esse ... substitutionem ...

113 ... per testatorem ... quod bona ... substitutione ...

... Bartolum ...

Porro illud ... bonis ... substitutione ... venditionem ...

114 ... administrationis ... curatorem ... testator ... executorio ... minores ...

... venditione ... bonorum ... administrationis ... nullo modo ... contractus nullus est ...

115 ... pupillis ... curatoribus ... tutoribus ...

... contrahere ... emptore ... personar

[illegible]

[illegible] quanet racones asignat [illegible] ius in l 23 glos ia nu 1° et in l 65 reus [illegible] Bartolus in materia vasalli habeatur rursus videndus Petrus ferdinandus consilium q 3 4 et 35 l 61 Joannes gutierrez de tutela 2 a p c 15 per totum pater nostra de tutore tract 2° q 24 nu 15 [illegible] magella in d l 4 glos 9 per totum et 5 parte ga Carpus de executoribus l 13 c 3 n° 43 et sequentibus qui omnes latte materiam referunt plurique bursas et ponderabiles quaestiones et dubitationes a [illegible] quae per te videlicet [illegible] dicendum quod pertinet ad tutorem vel curatorem rapportare mediarum tutorum vel curatorem executorum de te potens in materia nostra executorum in quorum proposito quod dicitur in dicto [illegible] debet idem intelligi in executore [illegible] ratione et quod de re cum [illegible] idem resolvitur in dicto executore in l 23 et 11 l 65 reus [illegible] verbo todo hombre que es [illegible] oguarda de guardas o otro hombre o muger qual quier que sea no pueda ni deba comprar ninguna cosa de sus bienes de aquel o aquellos que administrare y si la comprare publica o secretamente perderlo [illegible] lo comprare que assi fue hecha ni vala y sea desfecha y torne el quatro tanto de lo que vala lo que compro y sea para la nuestra camara [illegible] vaper hoc [illegible] tradunt communiter doctores proxime citati et plures alii [illegible] [illegible] esse [illegible] in executore quod dicitur in tutore vel curatore

Quae quidem regula et [illegible] limitatur [illegible] emptio per tutorem vel curatorem [illegible] executorem [illegible] bona fide in [illegible] quia non [illegible] [illegible] licentia et auctoritate judicis [illegible] [illegible] 3 4 de administratione tutorum d l cum ipsa 5 c de contrahenda emptione d l 4 et 5 partita 5 [illegible] [illegible] con otorgamiento

[illegible]

[illegible] authoritas et licentia judicis [illegible] quia in specie plures doctores [illegible] [illegible] referenda [illegible] excedens in d l 23 n° 3 [illegible] praesentia consanguineorum et judicis authoritatem [illegible] hoc non procedere [illegible] judicis auctoritate non posse tutorem vel executorem emere rem minoris vel hereditatis et hoc esse abrogatum per d l 23 affirmant sed verius est quod [illegible] authoritas vel licentia concessa causa cognita ut ego [illegible] posse emere rem minoris [illegible] d l 4 partita et vel quae [illegible] communis [illegible] quia d l 23 recopilationis [illegible] quo adest licentia judicis sed quando [illegible] tutor vel curator [illegible] emit rem sua propria authoritate id est quod prohibetur [illegible] contractus [illegible] Communis [illegible] quia d l 23 recopilationis fundatur in praesumptione fraudis propter [illegible] fraudandi res minoris vel hereditatis ideo prohibuit et merito quia quod per [illegible] fraudem et [illegible] personas administratores [illegible] et non valet ipso jure [illegible] administrator [illegible] [illegible] d l 3 glos 2 n° 4 [illegible] Joannes gutierrez d c 15 n° 17 [illegible] praedicta l 23 [illegible] contractus emptores vel [illegible] celebratus est inter tutorem curatorem vel administratorem seu executorem [illegible] minore vel [illegible] executore et ideo non comprehenditur in illius legis prohibitione [illegible] emptio facta [illegible] authoritate judicis [illegible] [illegible] in speculo glos [illegible] n° 59 et 60 c 1 plurisque [illegible] Joannes gutierrez d c 15 n° 9 et sequentibus [illegible] in executore testamentario [illegible] pus de executoribus [illegible] 3 n° 43 et sequentibus [illegible] in d l 4 glos 9 n° 8 et sequentibus [illegible] n° 15 [illegible]

117 [illegible]

... authoritate ... [illegible] ... heredes ... bona ... authoritas ... ex praesumptione ... [illegible]

... Carpus d c 3 n° 52 Hermosilla in d l 4ª gl 9 n° 4º

Alius casus est ubi tabellio ... [illegible]

118 ... [illegible]

... Carpus d c 3 n° 53 ... [illegible] ... in d l 23 ... [illegible]

Circa intellectum d l 23 recopilationis ... [illegible]

119 ... [illegible] ... propter fraudis praesumptionem et dolum et malum ... [illegible]

... [illegible] ... tutor vel curator ... heredes ... [illegible] ... in d l 23 glos 2ª n° 5 et 11 ... [illegible]

Unde sequitur quod ... d l 23 ... [illegible]

120 ... [illegible] ... tutor vel curator ... [illegible]

... 80 ... [illegible] ... 12 ... [illegible] ... 33 ... [illegible]

Dif 292

... cum minore

[illegible]

Cap. 13

1 M[illegible] generales [illegible] ex notoriate de bonis concedi [illegible]
2 [illegible] extraordinarium [illegible]
3 Monitorij contra certam personam non ligant [illegible]
4 Duo [illegible] vel [illegible]
5 Testes [illegible] pedium [illegible] non conti[illegible] in monitorijs
6 Possessor [illegible] compellere non comprehenditur in monitorijs [illegible] est remittenda
7 Vicarius [illegible] per [illegible] generalem monitoria dare potest
8 Vicarius Capitularis sede vacante monitoria concedit
9 Abbates [illegible] monitoria dare possunt
10 Vicarius foraneus non decernit monitoria nisi [illegible]
11 Iudex in [illegible] non potest [illegible] monitoria
12 Exemptus non habens iurisdictionem episcopalem non potest dare monitoria generalia [illegible]
13 Prelatus regularis [illegible] monitoria dare non potest
14 Monitoria non ligant si [illegible]
15 Appellare potest cui interest [illegible] monitoria
16 Appelatio [illegible] monitoria [illegible]
17 [illegible] non [illegible] ligantur monitorijs
18 Compensatio non ligant monitoria
19 Compensatio non admittitur in [illegible]
20 Sciens a [illegible] non ligatur monitorijs [illegible]
21 Sciens [illegible] monitorijs respondit [illegible] respondere
22 Sciens contentum in monitorijs [illegible]
23 Sciens [illegible] monitorijs non ligantur
24 Sciens in confessione respondere monitorijs [illegible]

25 M[illegible]
26 M[illegible]
27 [illegible]
28 M[illegible]
29 Monitorij [illegible]
30 Monitorij [illegible] bonis concedi
31 Causa necessaria est ad monitoria
32 Monitorij non ligant [illegible]
33 Exemplum non ligat [illegible] monitorijs
34 Monitorij [illegible]
35 Causa non est necessaria ad monitoria
36 Monitoria [illegible] concedi
37 Monitoria non ligant [illegible]
38 Monitorij non [illegible]
39 Monitorijs [illegible]
40 Revelare non tenetur maritus uxorem [illegible] consanguineos [illegible]
41 Monitorijs non ligantur [illegible]
42 Uxor maritus [illegible] non ligantur [illegible]

CAP. 14. DE MONITORIJS GENERALIBUS

Quotidiana et frequens est materia monitoriorum generalium quae concedantur petentibus [illegible] per [illegible] est [illegible] ut [illegible] episcopo [illegible] ad [illegible] pro [illegible] quod [illegible] in [illegible] libro [illegible] ea quae in noster [illegible] ea quae hic scribimus [illegible] libro [illegible]

1 Dico quidam quod monitoria generalia [illegible] de bonis concedi [illegible] pro rebus [illegible] contra voluntatem [illegible] ad [illegible] causa concedere [illegible] de bonis concedi [illegible]

[illegible]

... in praxi ...
... in contradictione et resolut. ...
... sequentibus et in fine ... editione ...
... verbo ... in mercato pag. 134 Augustin. ...
... pag. 96 ... et inoleveris ... ad ...
... Videant d. c. 3 ... alias ... Scobar ... de conscientia
... solutionibus 2 p. q. 2 § 3
n. 52 et sequentibus.—

Primum quod ... est quod predicte monitoria non debent concedi contra personam certam et determinatam sed contra incertam contra quam ... alias ... per ... remedio ... procedi non potest ... sic ... hoc remedium est extraordinarium ... concessum ... et Ecclesiasticis ... et quibus personis ... cognita ... contra ... remedia ordinaria quibus ... ordinarium ... per remedium ordinarium ... remedium extraordinarium quod non habet locum ubi competit ordinarium ... vulgari ... in ... 16 ... de minoribus ... in prin. ... Barbosa in ... 14 n. 63 ... n. 38 et sequentibus ... hoc remedium monitoriarum debet concedi ad instar remedii extraordinarii ... remedium extraordinarium ... remedii ordinarii ... Scobar de conscientia solutionibus d. 2 p. q. 2 § 3 n. 74 et 76.—

Adde hec respondeo ... quod

[illegible]

... quia ... conscientia ... per contumaciam eorum ... ecclesiasticus ... maxime ... gravibus ... Tornacen... de ... 2 q. 1 ... unico n. 5 ... et ... sed ... auctoritas ... attendendo ad ... monitoria ... quod non ... certa persona ... per illam ... persona ... et ... per ... concedere remedium extraordinarium ubi competit ordinarium et ... sententia ... 383 n. 8 Cardinalis ... Augustinus Barbosa de ... 96 ... n. 78 et 118 ... interrogare ... Barbosa ... 96 n. 40 ... Scobar ... § 3 n. 110.

Procedit ... si ... vel ... seu plures sunt obligati ... debitores ... contra ... concedi possunt ... monitoria ... certa ... Barbosa ... 96 n. 15 ... Scobar de conscientia solutionibus d. 2 p. q. 2 § 3 n. 81.—

Tertio ad idem quod si monitoria ... ad hoc ... dicat ... quod ...

... sueir

[illegible]

[illegible] ... [illegible] intersit re probationes per cart[illegible] ... generaliter in prin° [illegible] creditis [illegible]

Porro cum ex eo fiat ... praedictarum monitoriarum ... quisquelibet sua ... continet [illegible] generaliter nulla expressa persona quibus ... contra ... propter quem praedicta monitoria fuerint ... paratus sum respondere ... contra ... quod ... enim ipse ... persona ... Ut ex ea forma monitoriarum ... in ... fol. ... infra ... [illegible] ... remittere causam ad ... in possessionis cognoscere ... iure ... Joannes Gutier. Canonicarum lib. 1 c. 11 n° 82, 83 et 84. ... de potestate episcopi ... c 459 ... infra quos ... n° 82.

Postea d. lib. 1° c. 7 n° 4 ... quod monitoria debent ... apostolicum ... sede vacante ... nominatio vel ... habere ... ordinarium potest ... monitoria ... et eodem modo ... vicarius ... iurisdictionem ... [illegible] ... sententia quod ... vicarii ... concedendi ... monitorias ...

[illegible] ... [illegible]

... ipsos non contra hoc ... Concilii ... quam ab episcopo ... verba ... episcopos ... cum ... iurisdictionem ... vicarius ... facultate ... episcopo ... monitoria ... principalibus pertinentiis ... vicarius ... confessione ... congregationem Cardinalium ... declarationis ... Concilii ... declarationibus ... concilii ... facultatem ... cognoscere ... monitoriarum ... ipse vicarius cognitionem ... verbis ... quam ab episcopo ... congregationem ... 1583 ... resolutionem ... Joannes Gutier. Canonicarum ... 11 n° 8 ... 3 ... n° 94 ... declarationibus Concilii ... 3 n° ... Confessionis 2° p. c 5 ... P. ... n° 97 ... n° 19 ... lib. 1 c 9 n° 33 ... n° 55 ...

[illegible]

Cum ergo ... [illegible]

[illegible]

Concludum ... [illegible]

[illegible]

Adverte circa habentem ... [illegible]

11

[illegible]

Verum ... [illegible]

12

[illegible]

[illegible]

... c. 15 ... p. ... d. ... alleg. 96 n. 12 ... Sebast. ... d. q. 1 art. 3 n. 63.

In sextum inde praelatos regulares ... per ... iurisdictionem ... habeant ... quod ... iurisdictionem ... non possunt ... monitoria ... ad ... 2. tom. q. 35 art. 12 ... Emmanuel Rodr. quaest. regul. 2. tom. q. 59 art. 4 ... Barbosa d. alleg. 96 n. 13 ... Sebast. d. q. 2. § 3 n. 64.

Monitoriorum materiam ... legimus d. ... c. 7 ... aliquos casus in quibus ... debeant concedi ... vel debent revocari vel non ligant ... materia ... ubi monitoria non ligant ...

14 ... debeant concedi ... vel interest ... habere mandatum ... concedentur ... revocari ... Concil. Trid. d. sess. 25 de reformat. ... Ugolino d. c. 45 § 1 ... c. 23 § 4 n. 4. Barbosa d. alleg. 96 n. 4 ... Sebast. de confessar. ... 2. p. q. 2 § 3 § n. 65. 66. 67 et 115 ...

[illegible]

... n. 71

... sequuntur, nec ... debet ... impedimenta esse non posse ... legitima ... d. § 3 n. 72. Unde sequitur ...

19 ... interest ... appellare ad ... apostolicam ... quod et Concilium Tridentinum d. sess. 25 de reformat. d. c. ... arbitrio ... causa ... gravata ... appellare ... glossa verbo arbitrium in c. ... c. 16 ... n. 3 ... Sebast. ubi proxime § 3 n. 68 ...

16 ... petens monitorium ... aliqua causa ... monitoria ... concedi ... appellare ... monitoriarum ... n. 9 de ... c. 12 n. 4 ... Salgado de ... 2. p. c. 5 n. 24 ... n. 25 ... 48 ... c. 12 ... n. 50 n. 71 ... monitoriarum non debere statim appellare ... communicationem ... monitoria ... revocari ... concedentem ... appellare ... proposito ...

Videamus [illegible]

17 [illegible] quando [illegible] vel [illegible] quodquam [illegible] [illegible] ... nec possit dare nec [illegible] revelandum [illegible] et ideo [illegible] et hoc [illegible] quod ita [illegible] ... si fuerit mulier [illegible] ... confessione [illegible] ... in primo [illegible] ... vel praescriptione [illegible] ... et hanc quae habuerit [illegible] ... n. 4. [illegible] ... 981 [illegible] ... num. 3. Bartol. [illegible] ... 96 n. 31 [illegible] ... communem [illegible] ... n. 75.

18 Inde sequitur quod qui habet [illegible] ... communicationem [illegible] ... [illegible]

[illegible]

19 [illegible] contradicere [illegible] ... 978 [illegible] ... n. 1 ... 703 n. 1 ... n. 159 ... q. 3 ... n. 49 ... [illegible] ... ad quem [illegible]

Duodecimus casus sit quando [illegible]

20 [illegible] ... n. 30 ... q. 51 n. 62 ... quod [illegible] ... 1294 n. 13 ... n. 17 [illegible]

[illegible]

[illegible] in presentia [illegible] probationem [illegible] quae [illegible] praecio [illegible] quod [illegible] [illegible]

[illegible] 1° versu secundo [illegible] [illegible] denunciandi [illegible] 60 puncto 1° [illegible] n° 1. versu secundo [illegible] [illegible] rebellis [illegible] [illegible] rebellator [illegible] [illegible] [illegible] rebellione vel [illegible] [illegible] a rebellione [illegible] immanuel c. 25 n° 46 [illegible] in summa q. 69 emanuel [illegible] [illegible] c. 4° conclusione 10. [illegible] [illegible] de [illegible] [illegible] conclusione [illegible] [illegible] volumen de potestate episcoporum c. 48 [illegible] [illegible] plures [illegible] [illegible] de [illegible] [illegible] 96 [illegible] et de [illegible] puncto 1° [illegible] [illegible] n° 1. [illegible] [illegible] [illegible] [illegible] [illegible] denunciare et [illegible] [illegible] [illegible] [illegible] [illegible] lib. 3 disp. 13 n° 1 [illegible] [illegible] [illegible] et sequentibus.

21 Dicimus [illegible] quando [illegible] contenta in monitoriis [illegible] [illegible] [illegible] [illegible] qui [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] in mortal. c. 25 n° 46 [illegible] [illegible] c. [illegible] n° 72 [illegible] [illegible] 5° dubio 1° conclusione 6°. [illegible] [illegible] [illegible] [illegible] [illegible] n° 68 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n° 18.

Dicimus quarto [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] c. 25 n° 50 [illegible] [illegible] n° 24 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] c. 11 n° 25 [illegible] [illegible] [illegible] [illegible] [illegible] rebellione [illegible] [illegible] bonum commune [illegible] [illegible] bonum commune [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n° 8.

23 Dicimus quinto [illegible] [illegible] [illegible] in monitoriis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in monitoriis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n° 99 [illegible] [illegible] communem [illegible] communi [illegible] [illegible] [illegible]

et hoc [illegible] [illegible]
[illegible] [illegible]
[illegible]

24 [illegible]

d. c. 11 nº 94 [illegible]

[illegible]

D[illegible] [illegible] quis [illegible] per [illegible]
[illegible] praeterita [illegible]
[illegible] non [illegible] prove[illegible]
[illegible] delictum [illegible]
[illegible] obligari [illegible] vel delinquentem
[illegible] quia non [illegible] quis ille
[illegible] vel ille [illegible]
[illegible] respondere [illegible]
[illegible] impedimento per
[illegible] interrogetur cum juramento [illegible]
[illegible] vel [illegible] proba
[illegible] quandoque [illegible]
[illegible] verba [illegible]
[illegible] in
publicum [illegible]
[illegible] Propheta dicente [illegible]
[illegible] vulgare [illegible] per quam [illegible]
[illegible] quam [illegible]
[illegible]
[illegible] delictum [illegible] est non [illegible]
[illegible] probare
per [illegible] probationes [illegible]
[illegible] veritatem [illegible]
[illegible] l. 4 verbo [illegible] que diga
la verdad et 31 parte 3ª [illegible]
[illegible]
[illegible]
[illegible] resolvit Anto
[illegible] Gomez Variarum 3 tom. c. 12 nº [illegible]
[illegible]
[illegible]
communem et ab omnibus receptam [illegible]
sententiam et solus [illegible]
[illegible] d. cap. nº 39
et sequentibus ubi nº 40 et 41 [illegible]
[illegible] de [illegible]
[illegible] 42 nº 13 resolvit [illegible]
[illegible] interrogatum an commiserit [illegible]
[illegible] vel [illegible]
[illegible] non [illegible]
[illegible]
[illegible] verba
[illegible] intelligere [illegible]

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] facione [illegible]
[illegible] parrochus vel confessarius
obligatus ad [illegible] hoc [illegible]
[illegible] confessionem esset [illegible]
[illegible] quem [illegible] c. [illegible]
12 q. 1 a quod [illegible]

Decimus septimus casus [illegible] quod [illegible]
[illegible] ad revelandum vel
[illegible] contenta in monitoriis [illegible]
27 [illegible] consilium [illegible]
re circa revelationem et obligationem
[illegible] non [illegible]
[illegible] excommunicationem monitorialium [illegible]
[illegible] quidem impedibus [illegible] impedimen
[illegible] non obligatur [illegible]
nec monitoria [illegible] generaliter
[illegible] supra lib. 2 c. 1 nº 49
et sequentibus [illegible] casibus
monitoriis non obligant [illegible]
[illegible] quarto concluso

Decimus octavus sit casus quidem
quis per [illegible] vel metum impeditus [illegible]
[illegible] respondere ad monitoria vel revelare
28 quod [illegible] est
[illegible] monitoria [illegible] hoc [illegible]
[illegible]
[illegible]
[illegible] voluntas sit voluntas [illegible]
[illegible]
[illegible] quod per
metum [illegible] potius videtur con
tradicere maxime in [illegible]
[illegible]
[illegible]
[illegible] et [illegible]
nº 3 et 43 [illegible]
et in [illegible] nº 2 [illegible]
[illegible] resolvit [illegible] ubi
[illegible]
[illegible] praeceptum divi
num vel naturale obligans cum detri
mento vitae et status.

Decimus nonus casus ubi monito
ria non debent [illegible] nec obligant et quan
do [illegible] est [illegible] pa
[illegible] probabilis [illegible]
29 [illegible] et ita [illegible] non debent [illegible]
[illegible] et valent [illegible]
[illegible] quae sententia probatur [illegible]
[illegible]

d. c. 3º [illegible]

[illegible] ... resolbit quod sit respar ... a ad monitorias concedendas et hoc ... generali ... sed ... pedientes ... [illegible] ... de causis 4 ... fine ... [illegible] ... quando ... concedere debere ... [illegible] ... monitoriarum ... [illegible] ... et ad hoc ... quantos non est ... communicationem necessariam ... [illegible] ... monitorias ... [illegible] ... considerationes nec debent monitoria concedi nec ligant ... d. 3 p. c. 13 ... resolbit ... d. § 3 n.° 106 —

Vigessimus sit casus ... monitorijs ... in fama ... [illegible] ... non debent ... inferendum ... [illegible] ... nec debent monitoria concedi ... d. c. 11 n.° 76. ... d. 3 p. c. 5 n.° 9. Barbosa ... d. alegat. 96. n.° 33. ... d. 2.a p. q. 2.a § 3 n.° 103 —

Vigessimus primus casus est quod

[illegible] ...

[illegible] ... resolbit ... § 3 n.° 105 ... n.° 106 ... 3.a p. c. 4 n.° 15 et sequentibus ... causas quatuor ... considerari ... resolbit. Primum est hoc ... quaerit ... propter quam petentes ... ex ... bel ... quare ... monitoria ... in loco ... vel ... Quartum ... ad ... vel ... ad ... peccatum ... non ... arbitrium ... vel concedentis operatur ... secundum ... ad causam ...

Vigessimus secundus sit questio ... cum interest hoc est ad ... monitoria concedantur et illum qui scit vel debet ... vel ... contentis in monitorijs ... praecedit ... quod in ... monitorijs non comprehendantur ... non ligant ... hoc ideo quia communicatio ... generaliter ... et ... proferri ... ideo ... secundum eam ligat ... lib. 1 c. 7 n.° 77 et 116 ... praedictam doctrinam ... d. c. 11 n.° 77 ... 2.a p. § 3 n.° 94 ad finem —

Vigessimus tertius casus sit questio ... monitoria ... generaliter ... interest ... non ligant ... lib. 1 c. 7 n.° 60 ... monitoria ... communicatur ... et ... territorium non ...

[illegible] communicandi nec [illegible] per consequens [illegible] excommunicati [illegible] moveri [illegible] pro [illegible] Henriquez in summa lib. 13 c. 6 § 1 [illegible] Barbosa de potestate episcopi [illegible] plures [illegible] et sequitur Barbos. de potestate [illegible] alleg. 120 lib. 1 c. 20 n. 34 –

Vigesimus quartus est quaestio [illegible] petuntur in causa criminali ad fundandam vindictam contra aliquem nec valent nec concedi possunt et concessae ipso iure nullae esse, quia de facto in personis proferuntur, cum non proferatur judicem [illegible] ad particularem [illegible] qui [illegible] authoritate et per [illegible] sequitur sententia [illegible] vel [illegible] etiam quod sit justa et rationabilis causa, solum enim permittuntur in negotio civili etiam si procedat de delicto vel causa criminali in qua solum agitur de interesse pecuniario in quo [illegible] debet esse judex [illegible] Ricius in praxi decisione 278 [illegible] Barbosa d. allegatione 96 n. 2 et alios plures [illegible] Escobar proxime d. q. 2a § 3 n. 112 –

Illud quidem particulare habent praedictae monitoriae generales, quod concedi possunt nulla parte citata praecedente, sed per petitionem simpliciter [illegible] sed per relationem [illegible] Notarii subscribunt, hoc ideo quod cum non feratur contra quem proferantur nec quis sit contra quem dirigantur, certum est nullam debere praecedere citationem, teneat hoc [illegible] Augustinus Barbosa d. allegatione 96 et alios Escobar proxime d. § 3 n. 119 –

Si quidem [illegible] judices [illegible] semel fuerint concessae per Pontificem [illegible] alium judicem [illegible] non concedatur [illegible] ipso iure valeret

alios Escobar [illegible] n. 133 [illegible] 121.

Praeterea est aliud [illegible] monitoriarum [illegible] communi [illegible] praecedentis [illegible] quoniam [illegible] concedere [illegible] nec postea [illegible] nec aliquo [illegible] obtinere [illegible] Rebuffus [illegible] c. 27 n. 1 Henriquez in summa d. lib. 13 c. 18 § 4 [illegible] Escobar d. q. 2a § 3 n. 130 –

Porro advertendum est circa monitoria quod quamvis regula sit [illegible] excommunicatus [illegible] quam citius potuerit [illegible] excommunicatione liberare, quod si perstiterit per annum non admittitur [illegible] ad [illegible] de haeresi [illegible] cognoscere possunt [illegible] Trid. sess. 25 c. 3 [illegible] lib. 3 c. 12 n. 1 et sequentibus [illegible] excommunicatio [illegible] monitoriatur [illegible] excommunicatur perstiterit annum integrum non [illegible] de haeresi [illegible] nec [illegible] in poenis [illegible] in [illegible] monitoriis [illegible] excommunicationem [illegible] contra [illegible] proferatur [illegible] excommunicatio [illegible] excommunicationem [illegible] monitoriarum [illegible] in [illegible] Barbosa [illegible]

In omnibus ergo [illegible] supra [illegible] c. [illegible] in locis supra [illegible] nullitatem [illegible] non [illegible] procedant [illegible] nullitatis [illegible] hoc ideo [illegible] ut non sit necessaria [illegible] solum.

[illegible]

[illegible] ... quod mediante ea [illegible] confessorem accedat et [illegible] ... [illegible]

... [illegible] ... inter [illegible] ... parrochos est non [illegible] ... privilegij Bullae [illegible] ... absolutionem ... [illegible] ... in 1ª p.e c. 5 nº 5 87 ad finem ... [illegible] ... Augustinus Barbosa in [illegible] ... ad Concilium [illegible] ... de reform.e c. 3º nº 23 ... [illegible] ... d. 2ª p.e q. 2ª § 3º nº 128 —

Tandem ad [illegible] supra nº 25 ... [illegible] ... [illegible]

30 ... [illegible] ... [illegible]

... [illegible] ... d. c. 5 [illegible] ... [illegible] ... nº 54 ... nº 56 ... [illegible] —

31 ... [illegible] ... [illegible] ... voluntatem ... [illegible] ... de patria potestate § [illegible] ... de obligationibus ... 4ª et 14 parte ... [illegible]

32 ... [illegible] ... [illegible]

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... [illegible] ... l. 2 c. 7 per totum —

CAP. 15

1 Usquid [illegible]
2 Vis simplex [illegible]
3. Vis [illegible] violentia probata probatio voluntatis non [illegible] in contrarium

4 V[illegible] valet aliquid voluntas
5 I[illegible]
6 I[illegible] ad l. [illegible] quid metus causa
7 I[illegible]
8 I[illegible] ad l. [illegible]
9 A[illegible] presentia [illegible] proferenda vero solum intelligentia [illegible]
10 F[illegible] parochi et testium [illegible] matrimonij
11 F[illegible] testium in testamento [illegible]
12 M[illegible] quae fiunt metu [illegible] valent
13 I[illegible] ad l. [illegible] ff. de eo quod metus causa
14 I[illegible] ad l. [illegible]
15 I[illegible] ad l. qui in [illegible] ff. de [illegible]
16 Metus carceris [illegible] est.
17 L[illegible] loquens debet intelligi secundum [illegible] et [illegible] praecedentem
18 Juris dictionis prorogatio per vim nulla est ipso iure
19 Dolus et metus an annullent contractum ipso iure
20 In[illegible] ad l. [illegible] consensu 116 ff. de reg. iur. [illegible] 14 de [illegible]
21 Metum in [illegible] non committit [illegible]
22 Metus an causet ignorantiam
23 Bonorum possessio per vim vel metum agnita nulla est.
24 In[illegible] per metum [illegible]
25 Baptismum receptum per metum validum est
26 Professio religiosa per metum facta nulla est
27 Matrimonium metu contractum nullum est
28 Metus [illegible] matrimonium
29 Metus ad contrahendum [illegible] annullat matrimonium
30 Consanguineorum et amicorum praesentia quando annullet metum ut matrimonium [illegible] et n.° 126.
31 Procurator ad matrimonium debet nomi[illegible] [illegible] nullus.
32 Contractus quid sit
33 Contractus matrimonij in quo differat cum alijs contractibus
34 Matrimonium requirit voluntatem quod sit libera
35 Matrimonium metu contractum etiam si juramento sit confirmatum nullum est
36 M[illegible] metu contractum nullum est.
37 Matrimonium [illegible] per metum [illegible] confirmatum [illegible]
38 M[illegible]
39 M[illegible] [illegible] valet [illegible] non primum
40 Matrimonium ab impubere contractum cum copula [illegible] [illegible] valet [illegible] matrimonium.
41 Matrimonium nullum [illegible] ad contrahendum
42 Matrimonium nullum [illegible] dicatur
43 Matrimonij nullitas [illegible] ad [illegible] requirit [illegible] nullitas [illegible]
44 Metus [illegible] in foro exteriori non annullat matrimonium in conscientia nullum est
45 In dubio sententia semper pro matrimonio [illegible] est
46 Absolutio [illegible] a juramento per vim praestito
47 Relaxationem non petere [illegible] debet relaxationem petere
48 Juramentum secundum contra primum [illegible] nullum est.
49 Juramentum [illegible] in [illegible] nullum est ipso iure
50 Juramentum in contractu nullo per vim [illegible] in foro exteriori nullum est [illegible] necessaria est relaxatio
51 Relaxatio juramenti in foro exteriori [illegible] contractus validitatem debet fieri [illegible] in foro conscientiae non est necessaria
52 [illegible] in relaxatione juramenti [illegible] non est necessaria
53 Relaxatio juramenti per quem judicem facienda sit
54 Relaxatio juramenti an fieri per judicem loci contractus possit
55 Relaxatio juramenti in foro conscientiae per confessarium fieri potest
56 Relaxatio per quem judicem concedatur si partes sint [illegible] diversis [illegible] vel [illegible]
57 Relaxatio juramenti [illegible] in suo foro [illegible] judicem [illegible] causa [illegible] debet
58 Relaxatio juramenti [illegible] contractus valet vel non valet secundum [illegible]
59 Dist[illegible] contractus [illegible] quoad [illegible]
60 Contractus et distractus [illegible]

61 Metus

129 In . . . ad l. 2 C. de his quae vi
Sobre in obligatione perire [illegible] . . . metum
130 C. . . . metus durante duret etiam metus . . . per longum tempus purgatur
131 Metus dicitur . . . impedimento adigendum
132 Item actus praesentes durante . . . metus cum non purgant
133 Confirmari . . . animo . . . per . . . peccat mortaliter
134 Aliquod metus causa probandum est
135 Metus ad . . . probatoris
136 Metus indiciis et praesumptionibus probari
137 Metus . . . testes singulares admittuntur probatur
138 Intellectus ad l. 1 de his quae vi
139 Metus probatio difficilis est probare contrariam voluntatem
140 Conjecturae et praesumptiones quibus metus probatur
141 Metus praesumitur in re non veri . . . et facta sine causa
142 Metus est excipere liberam voluntatem
143 Tractatio metus inferendi antiquitatem facit praesumptionem metus
144 Detentio parentis in aliquo domo praesumit metum
145 Fuga potius facit illum metuendum
146 Vultum serbatum aut vox tremula praesumit metum
147 Liberos vexantes cum puella . . . intelligitur fecisse per metum
148 Justus . . . infert metum
149 Voluntatem liberam non habens praesumitur habere metum
150 Affirmatio actus est metus praesumptio
151 Lacrimos et gemitus faciens praesumitur metum habere
152 Protestatio probat ad metus probationem
153 Probatio metus quibus plenius . . . dicatur
154 Probatio de . . . per metum facienda est contra . . .
155 Actio metus contra omnes habentes . . . dirigitur
156 Libellus quibus ab advocatis formandus est in hac actione
157 Res amissa per metum juramento . . . probantur
158 Actio per metum in foro exteriori . . . in conscientia . . . peccatum est
159 Res habere per metum sine . . .
160 Juramenti sententia . . .
161 Metus . . . liberabitur ab obligatione in foro exteriori

162 Heredes . . . filio . . . de hac . . . per metum . . .
163 Habens . . . solum . . . per metum . . . in foro exteriori in interiori si non consensit . . .
164 Filius obligatus . . . debita . . . metus . . . in foro exteriori . . . valde obligatus in foro interiori si non consensit . . .
165 Creditor remittens . . . debiti per metum . . . obligatus in foro exteriori in conscientia . . . fraus vel dolus . . . peragere possit.

CAP. 15. DE HIS QVÆ VI METVS VE CAVSA FIVNT.

Non minus ut liquet quod dictum est in altera . . . ut videtur et metu . . . voluntate. Praesertim . . . dicamus duplex quidem est . . . absoluta alia vero conditionata absoluta . . . impetus qui repelli non potest . . . a . . . conjecto . . . 2a . . . quod metus causa . . . violentiam et . . . voluntatem . . . contrarium est . . . Aristoteles lib. 3 ethicorum c. 2 . . . violentiam quod . . . passo non consentiente . . . in . . . violentia . . . impetus qui repelli non potest . . . dist. . . . lib. 4 dist. 10 . . . violentia duplex est altera simplex et absoluta altera vero est conditionata . . . absoluta et major . . . violentiam . . . corporaliter . . . voluntatem . . . vel . . . corporis vel honorum quae quidem . . . absoluta et major non cadit in . . . interioribus voluntatis . . . consensus liberi et voluntarii . . . quia . . . cogi non

poena [illegible] propter [illegible] habendibus [illegible] quae fidelem intelligi at in [illegible] possessionem quam [illegible] habere domino [illegible] adeo [illegible] vel probatur [illegible] vis vel [illegible] nullo [illegible]

[illegible] violentiae vel metum [illegible] vel alius [illegible] voluntatem nec vello [illegible] ad voluntatem [illegible] in [illegible] per vim vel violentiam [illegible] sententia Nicolai [illegible] conss. [illegible] 2° tom. 2° [illegible] de [illegible] cons. 99 n° 10 lib. 3.° et [illegible] 85 [illegible] Barbosa [illegible] 34 [illegible] [illegible] verba [illegible] Barbosa in [illegible] lib. 1° voto 1° n° 109 et sequentibus quia propter vis violentia et metus [illegible] propriae [illegible] [illegible] in [illegible] vel [illegible] [illegible] corporalem non vero [illegible] intrinseco in mente et libero arbitrio [illegible] cogi non potest

Altera est [illegible] conditionata quam appelant Philosophi vo[luntarium] mixtum [illegible] voluntate habens voluntatis [illegible] periculum [illegible] vel [illegible] quod [illegible] in eo qui tempore [illegible] vel promissionem facit Deo vel [illegible] propter tempestatem [illegible] propter [illegible] quam [illegible] aliud facit tamen [illegible] quod [illegible] voluntarium [illegible] ad [illegible] voluntarius quod fiat propter aliud voluntarium eligendo [illegible] quam minus malum et ita [illegible] voluntatis [illegible] [illegible] declarat [illegible] Haec quidem vis conditionata [illegible] mixta [illegible] in actibus interioribus voluntatis et voluntatis [illegible] in actibus [illegible] et corporalibus facit [illegible] 3° et quod [illegible] [illegible]

[illegible] 19 [illegible] quod [illegible] cum [illegible] quibus in [illegible] per vim vel metum [illegible] [illegible] possunt [illegible] quidem [illegible] valent quae in [illegible] voluntate [illegible] [illegible] complectitur [illegible] [illegible] propter quod [illegible] aliud voluntarium [illegible] Deo vis conditionata vocatur —

Ex qua resolutione [illegible] notabiles [illegible] [illegible] per distinctionem [illegible] et [illegible] quidem [illegible] quod [illegible] vim [illegible] commune [illegible] committere aliquod peccatum quia [illegible] voluntatem [illegible] [illegible] quam [illegible] per quam [illegible] omnis voluntas nec quid voluntarium [illegible] si vero [illegible] permittentem hoc est per [illegible] quod voluntarium non est [illegible] ad [illegible] peccatum [illegible] aliquid in [illegible] voluntatis [illegible] quam [illegible] minus malum quod non [illegible] a peccato [illegible] [illegible] quam in peccato [illegible] 2, 32 q. 5 [illegible] 4° [illegible] 3. 84 n° 2 [illegible] 14 n° 1° [illegible] n° 2 [illegible] praedictam [illegible] interpretationem [illegible] 4. 31 q. 2 non est [illegible] 43 [illegible] haec verba non est [illegible] ei [illegible] quod [illegible] per [illegible] et ad [illegible] hoc propter voluntatem [illegible] et ideo non debemus malum facere nec in eo consentire ad [illegible] [illegible] [illegible] [illegible] conditionata [illegible] voluntatis ad [illegible] aliquid voluntarium —

Nec obstat [illegible] quod [illegible] causa [illegible] verbum vis

6 et esset sub clausula a pure consilii [illegible] quod [illegible] metus [illegible] fieri et quod [illegible] metum [illegible] esse [illegible] esse [illegible] fieri nam [illegible] [illegible] contra quod violentum [illegible] [illegible] intelligitur [illegible] conditionata [illegible] [illegible] voluntatis [illegible] in rubrica de [illegible]

[illegible] de [illegible] metus [illegible] causa [illegible] conditionata [illegible] quod metus causa de quibus [illegible] metus causa [illegible] non habebis de quo [illegible] [illegible] violenta [illegible] [illegible] metus contra voluntatem [illegible] involuntarium et [illegible] esse in utraque rubrica [illegible]

Nec huic resolutioni obstat [illegible]

7 [illegible] consensu contrarium plusquam [illegible] metus [illegible] non solum [illegible] metus esse [illegible] voluntatem, et nullo modo [illegible] verba [illegible] non [illegible] violenta [illegible] conditionata [illegible] quod metus [illegible] lex [illegible] [illegible] contractibus [illegible] non autem [illegible] et violenta [illegible] voluntatem et [illegible] [illegible] quod metus causa —

Absque etiam [illegible] intelligi illa lex [illegible] verbum [illegible] voluntatem [illegible] omnem voluntatem et verbum metus [illegible]

ad [illegible] voluntatem [illegible] [illegible]

Nec [illegible] [illegible] voluntatem [illegible] [illegible] quod mediante metu [illegible] non habebo hoc [illegible] voluntatem contrariam [illegible] metus [illegible] contrarium voluntati —

Hinc comprobatur contrarietas [illegible]

8 [illegible] authoritate [illegible] omnem voluntatem ad [illegible] authoritatem [illegible] et voluntas [illegible] non valere [illegible] voluntati [illegible] et quod [illegible] authoritas [illegible] voluntatum [illegible] authoritate [illegible]

Nec huic resolutioni obstat [illegible]

9 coram [illegible] [illegible] intelligere [illegible] non consentiat nec [illegible] consensum [illegible] ergo [illegible] non requirit consensum et approbationem [illegible] authoritas [illegible] voluntas [illegible] cum [illegible] [illegible] [illegible] in dicto l. [illegible]

cum in dicto l. [illegible]

causa dict. l. ... ff. [illegible] requireret authorita[tem] que ultra presentiam requirebat consen-
sum et assensum ut [illegible] tum [illegible] ... intelligi
[illegible] ff. de authoritate consen-
sum et [illegible] ... authoritatis presentia vero
non petit consensum et approbationem
[illegible] assistentiam cum intelligentia actus
sive approbet vel repugnet quod solum
est in partis presentia quo vero presens
dicitur qui prebetur sensibus corporis
et personaliter et corporaliter adest
[illegible] gloss. verbo presentiam, videre didem
... statuimus vers. ... de presen-
tibus quam plura prosequitur
[illegible] Gonzalez in [illegible] cancel. glos. 40
nº 36.

Hinc interpretatur [illegible] sacrum conci-
lium Trident. sess. 24 de reformatione
10 c. 1 ubi statuitur matrimonium non va-
lere nec celebrari posse nisi in presen-
tia proprii parrochi et duorum testium
ut intelligatur sufficere presentiam [illegible]
[illegible] d. l. [illegible] ... [illegible]
[illegible] ad matrimonium [illegible]
intelligat quod contrahentes faciunt et hoc
sufficere secundum veriorem resolutionem
et de hac questione disputationem [illegible]
[illegible] Sanchez alios referens de matrim.
lib. 3 disp. 39 nº 1 et sequentibus et nº 9
allegat Salcedo in praxi c. 73 vers.
[illegible] quidem ubi sacram con-
gregationem cardinalium respondisse
asserit valere matrimonium etiamsi
parrochus coactus assistat si intelligit
et si non intelligat non valere matrimo-
nium resolvit eadem declarationes
[illegible] adduxit Gonzalez in re-
gula cancel. glos. 40 nº 35, quamvis vel
[illegible] matrimonium [illegible]
[illegible] contrahentium propter defectum
consensus non vero [illegible] parrochi
et testium cum solum eorum presentia
requiratur non vero authoritas aut
consensus [illegible] in [illegible] testa-
mentorum glos. 15 nº 49 [illegible]
de matrim. q. 45 art. 5 puncto 3 dubio 1.
[illegible] Henriquez de matrim.
lib. 11 c. 3 nº 1 [illegible] de ...
[illegible] lib. 4 c. 1. et alii relati a San-
chez proxime ubi non requiri consen-
sum parrochi nec aliquam expressam
[illegible] consensum vel volunta-
tem sed solum presentiam tamen 12

lex generalis [illegible] ... d. l.
[illegible] proxime ... plura [illegible]
[illegible] questiones ... [illegible]
Sanchez proxime —

Communem quam resolutionem non
[illegible] qui testamento [illegible]
11 ff. de testamentis ... testamento
adhibiti sunt [illegible] vel
[illegible] et contra voluntatem testa-
mentum annullaret et tamen solum
tanquam testes eorum presentia [illegible]
quis [illegible] presentia [illegible]
[illegible] voluntatem [illegible] de-
bet [illegible] et matrimonium a-
nullati contra omnia proxime [illegible]
[illegible] nam quod [illegible] est [illegible]
[illegible] in testibus testamentorum
quod ad solemnitatem et requisito [illegible]
[illegible] debent esse vocati et ro-
gati [illegible] palam 21 § in
testamentis [illegible] glos. verbo roga-
ti [illegible] ff. de testamentis
[illegible] consensu [illegible] ... [illegible]
[illegible] et ideo [illegible]
[illegible] annullare [illegible]
[illegible] omnem consensum
seu voluntatem [illegible]
[illegible] respondet [illegible] Sanchez
d. disp. 39 in fine [illegible]
[illegible] intelligi potest nam [illegible]
quod requiritur [illegible] presen-
[illegible] vel aliquis [illegible]
[illegible] presen-
[illegible] presentia [illegible]
[illegible] intelligentia actus [illegible]
[illegible] d. l. [illegible] d. l. [illegible]
[illegible] docet et [illegible] de
probationibus 3 tom. conclus. 1219 nº 36
[illegible] in testamento adhibiti
quorum presentia [illegible] requiri-
[illegible] sunt adhibiti [illegible]
vel [illegible] consensus
[illegible] intelligentiam et
ideo [illegible] testamentum [illegible]
testamentario [illegible] ff. de testamentis.

Ex superiori resolutione quod [illegible]
[illegible] ... adesse aliquem
consensus [illegible] obstandum [illegible]
[illegible] vera resolutio ad illam
questionem inter [illegible] doctores [illegible]
[illegible] contrahens [illegible]
[illegible] valeat [illegible]
[illegible] postea [illegible]

[illegible]

[illegible]

vis ait tenere ordinem beneficii [illegible] de beneficio [illegible] consensu vel etiam [illegible] canonicae [illegible] [illegible] quod [illegible] locus [illegible] quo [illegible] provisionis probat [illegible] in [illegible] probandi, in solutorum [illegible] praeterea probatis in quibus prioribus renunciationem beneficii propriis factam ab probatis vel in favorem possessoris [illegible] debet declarari, et beneficium renunciantis debet [illegible] unde sequitur ita permittentem renunciationem beneficium retinere ad horas canonicas nec posse ad [illegible] illius ordinari, qua non sit renunciatio substituit licet postea a secunda per [illegible] Baltasar de [illegible] c. 17 nº 37 ad finem deinde etiam de qua [illegible] confessore vel confessoris praestito debet [illegible] in c. 1 § [illegible] C. Lotharius q. 31 q. 2ª. Eadem etiam super [illegible] conclusio et sententia [illegible] l. 1 § de doli mali et metus exceptione [illegible] autem [illegible] exceptionem praetor proponit [illegible] dolus [illegible] per occasionem [illegible] contra aequitatem [illegible] quibus verbis constat quod rigor juris est et [illegible] per metum [illegible] quod nullo modo aequitas admittit [illegible] praetor per actionem quod metus causa revocat. Sic etiam interpretatur [illegible] in l. cum proponas 3ª C. de hered. [illegible] heredis [illegible] quamvis subesse domino nolle adire [illegible] qui subesse domino adire hereditatem [illegible] substituit addito verum quia potuit nolle adire secundum [illegible] voluntatem liberam contra additionem [illegible] causa [illegible] voluntatis [illegible] additionem infirmat et substituti admitti ad hereditatem [illegible] videtur [illegible] confirmat [illegible] probatis [illegible] quibus [illegible] liberi [illegible] secundum quam resolutionem interpretatur [illegible] l. 2 § [illegible] quod metus

13 causa qui ab [illegible] promissa per metum ipso jure nulla est et ita communiter omnes Doctores [illegible] [illegible] sed illud procedit [illegible] jure [illegible] et secundum [illegible] [illegible] numero [illegible] promisso substituit et illud [illegible] res desiderat dicere [illegible] quia [illegible]

[illegible] praetoria est in contractu vel in [illegible] § [illegible] illius leges [illegible] actione quod metus causa [illegible] [illegible]. Nec admittit [illegible] [illegible] quo [illegible] pro [illegible] [illegible] nulla est ipso jure quod [illegible] matrimonium [illegible] nullum ipso jure [illegible] accessorio [illegible] sequi debet [illegible] accessorium [illegible] [illegible] gatis de [illegible] [illegible] in [illegible] quam Doctorum [illegible] [illegible] illius leges interpretationem [illegible] [illegible] actionem q. [illegible] nº 33 [illegible] non procedit [illegible] ubi eadem militat ratio in accessorio quae in principali ut communiter [illegible] omnes Doctores [illegible] [illegible] in proposito [illegible] militat ratio [illegible] [illegible] contractus [illegible] est principalis contractus est matrimonium [illegible] [illegible] contrahere [illegible] [illegible] [illegible] propter quod [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 12 nº 23, [illegible] superior conclusio [illegible] nostro Regno per decisionem [illegible] 58 [illegible] 5 [illegible] haec verba [illegible] medo [illegible] comprando o vendendo alguno ou alguna cosa [illegible] [illegible] [illegible] que [illegible] la compra [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] verbo [illegible] Gregorius Lopez [illegible] [illegible] verbo [illegible] [illegible] [illegible] glosa verbo [illegible] de [illegible] glos. verbo [illegible] in l. non omnia 44 [illegible] minor [illegible] [illegible] glos. verbo [illegible] ad [illegible] [illegible] glos. verbo [illegible] [illegible] [illegible] conclusionem [illegible] [illegible] ordinarii [illegible] qui Doctores [illegible] quod metus causa [illegible] [illegible] praeterea probatis [illegible] communem [illegible] [illegible] lib. 5 [illegible] nº [illegible]

medium Joannes Gutierr. de iuram. confirm. 1 p. c. 55 n° 21 Sebastianus ira de portio. dicto § 1 verbo ratihabiti. Flaminius in l. 20 n° 20 vers. ratihabitio. Antonius Gomez 3 tom. Variar. c. 4 circa finem vers. alio quoque modo et fere Antonius Gratian. 2 tom. commun. lib. 1 verbo ratihabitio vers. ratihab. contractum, Menochius consil. i n° 17 lib. 1. Padilla in l. inter pupillos n° 4 C. de transactionibus. Seraphinus de privileg. iurament. privileg. 110 in initio. Barbosa in rubr. 4 p. n° 20 ff. solut. matrim. plures relat. post Gomez pro utraque parte disputantes tam antiqui quam moderni Doctores Theologi et speciale relati per Petrum Thom. Sanchez de matrim. lib. 4 disp. 8 n° 4. Per Joan. Leonardum Basilium de sanctae peccatis lib. 2 c. 17 n° 36. Petrus Gregorius Syntagmat. lib. 20 c. 2 n° 3 et lib. 36 c. 5 n° 10. Sfortias commun. conclus. litera S. conclus. 21 n° 1 et conclus. 222 n° 1. Bobadilla consil. 142 n° 7. Salgado in 2 p. fragmentis verbo ratihabitio cum sequentibus. Cevallos commun. contra commun. q. 604 n° 3 et 4. Castillo quotid. controv. lib. 3 c. 1 n° 141 et per Joan. Boraura de contractibus disp. 3 q. 4 puncto 2 ° 83 n° 3 in frequentibus plures. latissime materiam explicans congessit Ursulus ferr. castilla in d. l. 56 glos. 1 ad glos. 9 n° 1 cum pluribus sequentibus et 5 partes q. pa... Gutierr. de matrim. c. 76 n° 2 et sequentibus.

Contra hanc verissimam resolutionem non desunt plures doctores praetendentes ita permutationem esse ipso iure nullam nec valere aliquo modo ... ratihabitionem necessariam de qua te plura sunt fundamenta de quibus mentionem facit pater Sanchez proxime d. disp. 8 n° 2 de quibus hic mentionem facere sufficit brevitate de causis probatas quaestiones disputationes pro specialiori declaratione. Primo probatur hoc sententia ex d. l. 1° C. de rescindenda venditione ubi venditio per metum facta dicitur

14 quod irrita est per verbum pro sequentibus temporibus quod dedisti et irrita possunt non ipso iure per glos. verbo probatur in l. si haberis § Hieronymus C. de sacros. Ecclesiis glos. verbo habebit in l.

...in l. generali § de ... suffragii commun. ... amen ... non ... commendatur que ... per ... veraque verbo ... de hoc generalis, de hoc ibi ... irrita et nulla ... quaecumque ... coniun...

...ubi irrita et venditio quia irritatur per actionem de eo quod metus causa ... certe sic quod sibi videtur ... firmitatem valida postea vero venditio irritanda et irrita est declaranda per actionem de eo quod metus causa secundum superiorem conclusionem et ... vendor quamcunque ... declarata ... 2° 5 part. ... in primis ... venta non se debe ... lo verder ... compra ... que se ... aquella ... valer ... mal ... quod non valet venditio ipso iure sed facienda non valida ... quia ubi ... irritanda et annullanda per actionem quod metus causa ... 56 ... 5 partes ... respondet Pater Sanchez d. disp. 8 n° 10.

Secundo contra superiora videtur facere d. l. qui metu ... C. de adquirenda hereditate. ubi in ... qui metu verborum vel aliquo modo ... adierit hereditatem ... placet ... heredem non fieri. Placet ... heredem non fa... per ... metu ... adeuns non fit heres ergo ipso iure permutatio ... mutatur. Sed respondendum est ... Pater Sanchez ubi proxime dicens ideo ibi nullam esse aditionem quia salem ... consensu et voluntate adiri debere intelligi secundum superiorem conclusionem adeo ... non fieri heredem intentando actionem quod metus causa ... quod in ... de metu ei ... debeat ... mero iure secundum declarationem et interpretationem a nobis traditam proxime ad l. ... eodem titulo de adquirenda hereditate.

Tertio pro contraria sententia adducitur ... in l. qui in carcerem 22 ff. de eo quod metus causa ubi dicitur qui in carcerem quem detrusit ut

16 aliquid

[illegible] quae [illegible] causam [illegible] nullus [illegible] per quem [illegible] cum [illegible] [illegible] esse [illegible] [illegible] [illegible] [illegible] [illegible] Bauonibus a tomo concl. 1059 nº 50 Franciscus de Amaya c. 7 nº 10 Barbosa de rerum quotid. lib. 1 c. 5 pag. 311 nº 30 qui [illegible] non admittunt annullationem obligationis ipso iure debere [illegible] verbis nullius momenti constitui [illegible] obligationem ipso iure ad respondendum, posset omissa solutione dicendum. ideo ibi fieri ipso iure nullitatem obligationis. quia in verbis dolus et [illegible] metum inferentis ut est Franciscus [illegible] de [illegible] conf. 1 ap. c. 57 nº 21 quia mihi non tollit difficultatem quae propter dicta illius legis decisionem intelligi debere quod sit nulla obligatio in [illegible] non ipso iure sed ope exceptionis, per [illegible] de eo quod metus causa est quidem illius [illegible] sub [illegible] eadem de eo quod metus causa [illegible] editum venit ad annullandum quod metu vel vi gestum est [illegible] quod metu [illegible] valet maxime quia per [illegible] [illegible] verbis solum [illegible] dicere [illegible] esse ipso iure nulla [illegible] metus [illegible] [illegible] [illegible] propter [illegible] [illegible] conditionatam metu ipso iure valere [illegible] metus causa [illegible] [illegible] quod [illegible] fieri, doctores

17 sibi [illegible] [illegible] semper [illegible] [illegible] [illegible] vel [illegible] [illegible] debet intelligi pluribus [illegible] [illegible] Hieronymus Gonzalez in [illegible] glos. 3 nº 2 et [illegible] [illegible] intelligenda [illegible] [illegible] cum L. 1 [illegible] de [illegible] credi [illegible] petrum [illegible] intelligatur in [illegible] [illegible] [illegible] verba [illegible] [illegible] pluribus [illegible] [illegible] Practic. lib. 3 q. 17 nº 39 ergo [illegible] de [illegible] causa [illegible] nº 64 [illegible] lib. 1 c. 5 nº 3 45 [illegible] quod [illegible]

per [illegible] [illegible] [illegible] lib. 1 c. 5 nº 9 —

Quarto [illegible] [illegible] [illegible] [illegible]

18 [illegible] vel metu [illegible] [illegible] nulla est prorogatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ipso [illegible] [illegible] voluntarii [illegible] [illegible] [illegible] quibus [illegible] [illegible] [illegible] praeterea [illegible] [illegible] nulla per [illegible] est [illegible] sed [illegible] est ideo [illegible] iurisdictionis [illegible] nulla est ipso iure quia quod [illegible] vel metus [illegible] [illegible] [illegible] voluntas et [illegible] [illegible] et [illegible] voluntas conditionata [illegible] non potest [illegible] [illegible] consensisse nec [illegible] iurisdictioni voluntatem [illegible] et ita omnino [illegible] ipso iure nullus est nec per [illegible] [illegible] metum [illegible] per quam [illegible] consensus et nullus [illegible] [illegible] non procedit in [illegible] metum [illegible] in [illegible] [illegible] intelligi glossa [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] lib. 3 [illegible] [illegible] respondi potest quod [illegible] in prorogatione [illegible] cum consensus per metum [illegible] non potest dare iurisdictionem [illegible] [illegible] lib. 1 c. 17 nº 37 —

Quinto [illegible] in contractibus bonae fidei [illegible] dolus dat causam contractui ipso iure nullus [illegible]

19 [illegible] de dolo L. 57 [illegible] at in metu dolus [illegible] [illegible] [illegible] [illegible] de eo quod metus causa L. 2 [illegible] dolus [illegible] [illegible] [illegible] [illegible] [illegible] dolus metus L. dolus vel metus [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] c. 2 de [illegible] eodem modo [illegible] ipso iure nulla [illegible] [illegible] respondendum [illegible] [illegible] dicendum quod [illegible] dolus [illegible] consensus et voluntas et [illegible] metus [illegible] [illegible] quia non tollit difficultatem respondendum est debere [illegible] quod

dolus sit plus [illegible] ut vel ex dolo
[illegible] non [illegible]
[illegible] dolus [illegible] sententia
propter dolum [illegible]
[illegible] causa [illegible]
[illegible] forma [illegible]
quod [illegible] non sit [illegible]
consensum quod [illegible]
[illegible] in
causa consensus [illegible]
[illegible] contractus quam [illegible]
[illegible] Bartol.
[illegible] d. [illegible]
[illegible] quod si dolus
[illegible] circa substantiam contractus
[illegible] sed si ad est dolus circa
causam contrahendi vel aliquam qua-
litatem contractus dolus non annullat
contractum sed mero iure valet licet
[illegible] contrahenda [illegible] quae dolo [illegible]
[illegible] per [illegible] de [illegible]
c. 17 n.º 29

Sexto facit nam omnis contractus
sine consensu et voluntate factus nullus
est ipso iure, cum substantia contractus
consistat in [illegible] consensu l. obliga-
tionum substantia 3 ff. de actione [illegible]
obligat. cum vulgatis similibus sed [illegible]
[illegible] ad est [illegible] consensus l. nihil
consensui 116 ff. de regul. iur. c. cum
locum 14 de sponsal. [illegible] vbi deest
consensus et voluntas ipso iure contractus
corruerit sed respondendum est negan-
do minorem [illegible] quod si rape-
ritur aliqua voluntas saltem coacta
sibe conditionata quae sufficiens est
ad validitatem actus seu contractus
per metum celebrati nec contractum
[illegible] in d. l. nihil consensui et d.
c. cum locum quae [illegible] licet metum esse
[illegible] voluntati contractum [illegible] non omni-
no [illegible] voluntatem et ideo contractus
mero iure valet et [illegible]
[illegible] metus per [illegible] actionem [illegible]
[illegible] esse nulla et [illegible]
[illegible] voluntatis [illegible] quod [illegible]
[illegible] est per actionem quod metus
causa [illegible] conclusionem

Septimo solet addici pro contraria
sententia nostrae conclusionis sequens [illegible]
[illegible] vel metum in [illegible] aliquid
[illegible] videtur contra [illegible]
[illegible] contra volun-
tatem domini cum contrariari [illegible]
[illegible] ergo [illegible] nullum
[illegible] dominium [illegible]
per metum facta nulla est ipso iure
sed non est [illegible] quia [illegible]

[illegible] non [illegible]
[illegible]
[illegible]
[illegible] 14 [illegible]
[illegible]
[illegible] non [illegible]

O [illegible]
non [illegible] metus [illegible]
[illegible] et metum [illegible]
[illegible] d. l. [illegible] 145
[illegible] actione ff. de eo quod metus causa
non [illegible] metus habeat [illegible]
[illegible] quis [illegible]
[illegible] vel [illegible]
sed [illegible] est consensus contractus
l. [illegible] 15 ff. de [illegible]
[illegible] ergo contractus [illegible]
[illegible] probabilis [illegible] ipso iure
nullus, sed respondendum est ad [illegible]
[illegible] nec [illegible] in
[illegible] metu facto nec contractum [illegible]
[illegible] in d. [illegible] actione sed solum
[illegible] metu [illegible]
metu vel vim adhibuerit [illegible]
[illegible] metum [illegible]
nullo modo [illegible] quam [illegible]
[illegible] per [illegible] et ideo
ad est consensus licet coactus qui [illegible]
[illegible] per actionem quod metus causa [illegible]
[illegible] valere.

Non enim obstat [illegible] in l. 3. [illegible]
ff. de bonorum possessionibus [illegible] verbo
[illegible] bonorum possessio adquiri
[illegible] quod metum passus [illegible]
[illegible] hereditatem nihil facere et aditionem
esse nullam et [illegible] in aditione [illegible]
[illegible] possessionis bonorum adquisitione
[illegible] quod [illegible]
[illegible] d. l. [illegible] metus causa [illegible] ff. de [illegible]
[illegible] hered. d. l. [illegible] 1. § [illegible] coactus
[illegible] 2.º ff. de eo quod metus causa per quae [illegible]
[illegible] nam [illegible]
debet in [illegible] interpretari
[illegible] quod illa aditio
hereditatis vel agnitio possessionis [illegible]
[illegible] per vim facta mero iure valeat postea
[illegible] actione quod metus causa
et hoc [illegible] per metum [illegible]
ad [illegible] praetorium [illegible]
[illegible] a praetore aditum de quo in l.
[illegible] ff. de eo quod metus causa et bonorum
possessio [illegible] ad praetorium [illegible]
per [illegible] ff. de bonorum possessione [illegible]
propter [illegible] aditio [illegible]
[illegible] per metum
[illegible] et quod [illegible] aditionem per [illegible]
[illegible] bonorum possessorem non adquiri
debet intelligi [illegible] beneficio praetoris
et non obstat [illegible] aditionem esse
nullam

nullam ... non intelligimus [illegible] ... rendenti sed dici facta ... quod [illegible] ... fuit nulla fuit ... per [illegible] ... [illegible] ... resolutionem inter praetorisque in l. ... solem 11 § 1 ff. de in integrum restitutionibus ... pericularum remissionem procedere ... qua sub aequitate praetoris quam ... omnem metum quo propter ... ea in sua remittitur per metum vero ... videri ipso iure remissa videtur sed quia praetor ... aequitate ... metum ... quod metus causa illa se ... remissio annullatur et de actione ... legis ...

Sed doctor advertit ... resolutionem ... maiores ... quaeritur de baptismo vel baptismum per vim vel metum receptum ... valere ... nec ... quod metus causa annullatur nec ... voluntatis baptizati ... a valore ... legem ... per metum valet ... dicendum ... solutionem ... baptizati nullum requiri consensum ad baptismum ... vero ipso iure valere quamvis metus consensum et voluntatem vero ... videtur glossa verbo ... inter ... maiores ... quaeritur quod solum nullo modo ... quia contrarium verum est ... magister ... voluntatem baptizati necessario esse ut constat ... dist. 45 ... communiter doctores ... dormientem ... baptismum quia non habent voluntatem et consensum.

Nec ... dictam solutionem ... consensum nec velle vel nolle nec ... pupillus 149 ff. de reg. iur. l. in ... ad legem ... de ... l. 1 ... de falsa moneta ... res ... in ... esse speciale ... consensum non habeant baptizati ... quia ... [illegible] ...

... pera ... ut ... actos in ... consecrat. dist. 4 ... quod ... voluntatem ... 13 c. ... dei 7 c. ... 130 c. ... de consecrat. dist. 4 ... sed ... domini ... dist. 4 ... est in baptismo ... valeat ... per metum ... domini ... baptismum quis ... ubi ... habeat ... quaeritur.

Dicendum conclusionem contrarium ... voluntatem ... vim vel metum factum est nullum ipso iure nec valet nec ... ergo metu facta ... valet nec ... causa ... respondendum ... illum ... de vi non vero de metu ... quia mulier de qua ibi ... religionem ingressa et professionem ... quia ... per vim ... intra claustra ... omnino ... voluntatem et per vim facta fuit nulla ipso iure quod metu ... quod ... de his quae vi metusve causa ... de his quae vi ... de his quae per metum ... debet in ... per quam ... omnis voluntas ... per vim facta professio nulla est ipso iure nec ... praetor ... quod metus causa ... professio.

Secundo respondemus ... religiosi ... voluntatem ... non ... voluntas ... debet esse libera ... requisitum ... debeat ... nullum ipso iure quod professio et votum sit nullum ... vel metus ... resolvimus supra c. 12 n. 86 et sequentibus.

illius viri [illegible] specialitatem per literas ex Silvestro [illegible] non [illegible] ad [illegible] voluntatem [illegible] sed debere esse liberam omni [illegible] [illegible] nullum fuit votum et professio facta per vim vel metum [illegible] quod [illegible] de eo quod metus causa.

Undecimo contra superiorem ratiocinationem facit quod communiter doctores [illegible]

27 [illegible] matrimonium [illegible] vel metu contractum esse nullum ipso iure [illegible] et nullo modo esse contractum sacramentum [illegible] [illegible] hec verba [illegible] cum non habeat consensus [illegible] vel coactio intercedit [illegible] rationem [illegible] matrimonium autem [illegible] [illegible] [illegible] primo cum [illegible] contraxit [illegible] matrimonium esse contractum [illegible] [illegible] verbis matrimonium primum [illegible] vel metu contractum [illegible] nullum [illegible] matrimonium [illegible] matrimonium metu contractum [illegible] nullum [illegible] metus [illegible] in [illegible] verbis [illegible] [illegible] non [illegible]

[illegible] Ornato [illegible] [illegible] [illegible] de verbor. oblig. [illegible] pars 3 [illegible] matrimonium primo contractum per [illegible] et in secundo matrimonio [illegible] quia primum per metum matrimonium contractum est nullum ipso iure [illegible] hoc matrimonium [illegible] matrimonium [illegible] matrimonium [illegible] contractum est [illegible] matrimonium quod [illegible] matrimonium [illegible] [illegible] [illegible] matrimonium [illegible] matrimonium per metum contracta [illegible] 17 de sponsalibus [illegible] 13 [illegible] de matrimonio [illegible] [illegible] 12 nº 18 [illegible] de matrim. [illegible] c. 7 [illegible] 28999 nº 3 Augustinus Barbosa [illegible] [illegible] 13 nº 11.

Que verissima

Quae vero ipsa sententia ut resolvo aliquibus notis [illegible] vera est. 28 Primo ut procedat [illegible] contrahentes [illegible] matrimonium nullum est quia metus [illegible] matrimonium quod libertatem et voluntatem exigit c. cum locum 14 de sponsalibus, sed hic voluntas [illegible] per metum [illegible] contrahentem [illegible] ergo a quocunque metus inferatur semper nullum est matrimonium [illegible] ad rescindendos quoscunque contractus [illegible] idem sit a quocunque sit illatus ut late resolvit Thom. Sanchez lib. 4 disp. 20 n. 7 eodem modo matrimonium per metum a quocunque illatum debet esse nullum per quasdam rationes [illegible] resolvit Thom. Sanchez d. lib. 4 disp. 12 n. 19 quem refert et sequitur Joannes Gutierr. d. c. 76 n. 11.

Secundo adeo vera est dicta doctrina ut si quis coactus fuerit contrahere cum aliqua incesta muliere [illegible] 29 adeo matrimonium illud per metum contractum [illegible] nullum et hoc [illegible] ad matrimonium [illegible] plena libertas [illegible] quod [illegible] sententiam refert Cobarr. in 4 de sponsal. 2 p. c. 3 § 5 n. 8 [illegible] lib. 5 c. 12 n. 17 [illegible] Thom. Sanchez d. disp. 12 n. [illegible] quem sequitur Joannes Gutierrez de c. 76 d. n. 11 vers. secundo ampliatur.

Tertio adeo vera est dicta doctrina ut si matrimonium sit contractum praecedente metu in praesentia consanguineorum vel aliarum personarum 30 consanguineorum [illegible] debet reputari nullum [illegible] gravem metum [illegible] et contrahens in praesentia consanguineorum [illegible] Gutierrez d. c. 76 n. 12 [illegible] supra n. 12.

Quarto adeo vera est superior resolutio ut sicut matrimonium metu contractum est ipso jure nullum ita procuratoris constitutio 31 ad matrimonium contrahendum si metus intervenerat matrimonium quod ex illa contrahitur erit nullum ipso jure nam matrimonium contrahitur virtute illius mandati c. fin. de procuratoribus in 6 et si metus intervenerat mandatum erit nullum quoniam sicut ad matrimonium requiritur consensus liber [illegible] ad mandatum [illegible] matrimonii celebrati [illegible] Cobarr. in 4 2 p. c. 3 § 5 n. 9 [illegible] Joannes Gutierrez d. c. 76 n. 13 [illegible] lib. 3 c. 14 n. 22.

Sexto in matrimonii contractu libera voluntas requiritur adeo ut si metus interveniat nullum sit ipso jure [illegible] 32 [illegible] matrimonium est contractus [illegible] l. 19 [illegible] lib. 2 c. 17 n. 1 [illegible] matrimonium [illegible] metu [illegible] nulli reputari [illegible] 33 [illegible] adeo [illegible]

nullitate praecedentem sequatur ex respectu rituali in matrimonio contrahendo, sed necessitas ritualis sed ut semper debet consensus deficiente habere, et hoc speciali ratione statuitur et recipitur in matrimonio, ad ejus validitatem requiratur voluntas contrahentis et hoc cum qualitate libertatis, et quod omnino sit libera alioquin sit nullus nec matrimonium valorem habere debet cum voluntate coacta cum requiratur voluntas, et quod sit vera

34 quod fortes satis [illegible] in d. c. cum locum 14 c. 31 plerodebet [illegible] veritate illa gaudere [illegible] sabbatis facit [illegible] quod libera debeant esse matrimonia d. c. gemma 29 eodem tit. ubi cuncta quae libera matrimonia esse debeant, et loquebatur quia voluntas non fuit libera imo coacta voluntas [illegible] ita ut matrimonium nullum est [illegible] fortiore solutionem [illegible] glos. verbo [illegible] in [illegible] 2 q. 3 q. 5 et [illegible] in [illegible] n. 8 de his quae vi quod adeo voluntas et libertas est necessaria ad validitatem matrimonii, quod posset voluntas et non libertas non esset satis solum dispositionis [illegible] nec matrimonium ita celebratum posse subsistere [illegible] de [illegible] libro [illegible] et alios plures quos sequitur Barbosa in voto 1. n. 17 cum sequentibus, proqua solutione facit [illegible] 3. [illegible] de electione in [illegible] electionis [illegible] debet adesse voluntas quae tamen non est legitima nisi sit libera alias nulla est facit [illegible] plures [illegible] de conditionibus [illegible] verba [illegible] plures doctores [illegible] quia [illegible] confirmando suam sententiam [illegible] Barbosa proxime d. voto 1 n. 101 —

Circa [illegible] doctrinae solutionem [illegible] adeo verum esse matrimonium contractum [illegible] metu et sine libera voluntate et ut sin

39 alii contractus praecedente metu a [illegible] juramentum confirmando matrimonium seu promittendo non venire contra eum quia est contra bonos mores [illegible] matrimonium et nullum ipso jure ita et juramentum quod debet sequi suum principale et tam sit nullum etiam juramentum debet esse nullum ipso jure et nulla sit necessaria relaxatione proqua adverto [illegible] in d. c. [illegible] [illegible] ubi [illegible] matrimonium quam potuit non obstante juramento matrimonium metu contractum nullum

esse [illegible] ex tit. [illegible] [illegible] glos. [illegible] [illegible] quae [illegible] duas sententias [illegible] [illegible] [illegible] [illegible] Sanchez de matrim. lib. 4 disp. 20 n. 12, 14 [illegible] sequitur [illegible] [illegible] [illegible] n. 21 quod [illegible] [illegible] [illegible] [illegible] esse necessariam juramenti relaxationem ut pluribus doctoribus et fundamentis comprobat [illegible] Sanchez d. lib. 4 disp. 20 n. 4 quem sequitur [illegible] d. c. 76 n. 49

Secundo notabis quod ultra quod diximus supra n. 28 quod metum illatum per personam [illegible] matrimonium [illegible] quod

36 etiam fratres illatus [illegible] unus [illegible] contrahentibus, dicit esse nullum matrimonium [illegible] metum illatus [illegible] metum facientis vel alterius [illegible] contrahentibus non [illegible] contractum nec competit actionem ex quod metus causa [illegible] in princ. ff. de eo quod metus causa, ut in matrimonii contractu etiam [illegible] in metu [illegible] interveniat adeo voluntas debere esse libera ad contrahendum matrimonium ut [illegible] contrahendum matrimonium etiam [illegible] [illegible] in [illegible] in d. c. veniens el 2. 15 de sponsalibus [illegible] ad hoc ut compulsus [illegible] contrahere [illegible] matrimonium nullum est c. abbas 2. de his quae vi [illegible] [illegible] in ecclesiam [illegible] [illegible] in [illegible] Gregorii 15 [illegible] 326 [illegible] 17 —

Tertio notabis quod si quis metu [illegible] contrahat matrimonium tempore quo praestat

37 consensum [illegible] solemnitatibus Concilii Tridentini voluntatem contrahendi non habebat non debere confirmare tale matrimonium nec [illegible] habere [illegible] [illegible] [illegible] debere [illegible] matrimonium [illegible] sit nullum matrimonium quod [illegible] [illegible] nec voluntas fuit libera [illegible] [illegible] [illegible] [illegible] prohibita [illegible] Henriquez de matrimonio lib. 11 c. 9 n. 7 resolvit Pater Sanchez de matrim. lib. 4 disp. 20 n. 17 [illegible] est quoad nullitatem matrimonii [illegible] [illegible] vel [illegible] solemnitatibus Concilii Tridentini adeo quod contrahentes [illegible] ad

aliud matri

[illegible] matrimonium [illegible] n.º 140 et al. [illegible] intentabatur.

38 Quarto notabis contrahentem matrimonium per vim vel metum quem [illegible] videatur superiori [illegible] sacramentum celebrasse cum tamen [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contra [illegible] voluntatem [illegible] tale celebratione matrimonii non [illegible] [illegible] [illegible] [illegible] [illegible] peccat [illegible] vel metu adeo [illegible] [illegible] [illegible] a peccato etiam [illegible] [illegible] [illegible] [illegible] [illegible] contrahendi [illegible] peccare [illegible] [illegible] quod [illegible] et [illegible] matrimonium [illegible] per vim vel metum [illegible] [illegible] et matrimonium contrahatur [illegible] [illegible] [illegible] sacramentum [illegible] contrahentium [illegible] [illegible] sacramenti [illegible] quando valide celebratur quando [illegible] [illegible] contrahit [illegible] matrimonii nec [illegible] [illegible] nec [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contrahentis [illegible] operatione non [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Sanchez d. lib. 4. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] d. lib. 12.

39 Quinto notabis quod si quis primo contrahat matrimonium per metum [illegible] [illegible] [illegible] matrimonii [illegible] [illegible] contrahat secundum matrimonium cum alia in secundo matrimonio debet permanere et cum secunda uxore debet cohabitare [illegible] [illegible] primum matrimonium fuit nullum et [illegible] [illegible] validum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] matrimonium [illegible] [illegible] [illegible] [illegible] Sanchez [illegible] [illegible] n.º 12 [illegible] [illegible]

[illegible] d. c. 76. n.º 45., [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quod [illegible] [illegible] [illegible]

40 [illegible] contrahat matrimonium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contrahentem [illegible] contrahentem matrimonium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] copula [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cum alia secundum contraxit matrimonium dubitatur [illegible] [illegible] matrimonium debeat valere et dicendum quod cum primum non fuit matrimonium nec fuit contractum cum solemnitatibus [illegible] [illegible] matrimonium est [illegible] secundum matrimonium debet permanere [illegible] [illegible] [illegible] 4.ª Covarr. in 4. [illegible] [illegible] [illegible] [illegible] n.º 7. [illegible] [illegible] n.º 61. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] eodem modo [illegible] [illegible] quo [illegible] matrimonii nullitas probetur quod [illegible] et metum [illegible] [illegible] cum alio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad quae [illegible] [illegible] [illegible] contractus [illegible] [illegible] [illegible] [illegible] [illegible] validitatem requiruntur [illegible] solemnitates [illegible] [illegible] nullus [illegible] [illegible] secundum [illegible] [illegible] [illegible] solemnitatibus celebratur.

41 Sexto notabis quod si matrimonium per metum celebratur cum omnibus solemnitatibus [illegible] [illegible] [illegible] et postea [illegible] [illegible] et accedit ad [illegible] aliud matrimonium verum [illegible] [illegible] [illegible] matrimonium [illegible] [illegible] per metum contractum [illegible] [illegible] debet fieri precedentibus solemnitatibus necessariis ad de novo contrahendum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] matrimonium quod [illegible] contractum est per metum nullum fuit nec sacramentum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] matrimonium [illegible] [illegible] impedimento [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] necessaria [illegible] contrahendum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] matrimonii [illegible] quo voluntas debet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] matrimonium non

esse contractum quia verba de futuro sub [illegible] nihil durant a[liud] et quod sint de futuro et sub conditione debent nec [illegible] quo casus pro dicti sine esse nec valet [illegible] consensus in matrimonio [illegible] consensu subsecuto solum illud [illegible] posse non [illegible] maxime quia [illegible] solum [illegible] et attenditur ad tempus ratificationis et ratificatio invalida [illegible] est quam ratificatus [illegible] 77 ff. de hæredibus instit. [illegible] debet intervenire in formatione actus debet adesse in eius [illegible] ut valeat, nec illas [illegible] quæ prius fuerant [illegible] non potest [illegible] ratificationis quia [illegible] non [illegible] principium [illegible] quæ omnia [illegible] adducendo [illegible] Doctores et [illegible] apud doctissimos [illegible] interpretes [illegible] in propriis terminis ita alegavit et [illegible] nobis [illegible] apud Gregorium 15 decis. 395 per totam [illegible] sententias adducendo probans [illegible] de matrim. d. c. 76 n. 2 et sequentibus.

Sed huic resolutioni multo fortius obstat verissima communis et recepta resolutio quod si matrimonium per metum [illegible] et cadentem in constantem virum contrahatur quod est omnino nullum [illegible] consensus et [illegible] solemnitatibus [illegible] sponsa [illegible] consensus maritalis vel copula [illegible] sequatur (quia [illegible] non [illegible] matrimonium) et hoc [illegible] per [illegible] voluntate prius [illegible] contractus [illegible] matrimonium [illegible] nec necessaria est solemnis [illegible] solemnitatibus, cessant enim [illegible] fundamenta [illegible] matrimonium [illegible] interpretes et communes et [illegible] per illam copulam et similes per [illegible] non [illegible] quæ sententia a [illegible] comprobatur [illegible] c. ad id [illegible] matrimonium per vim vel metum contractum [illegible] contrahentes, per aliquod tempus [illegible] copula [illegible] confirmatum quam [illegible] impedimentum

[illegible] non fuit conjuges separandi [illegible] matrimonio per [illegible] solemnitatibus [illegible] contrahendum [illegible] matrimonium [illegible] solemnitatem [illegible] nec requiritur quod [illegible] simul [illegible] quod [illegible] contrahentes [illegible] voluntate [illegible] nec [illegible] potuerunt [illegible] communem resolutionem plures adducendo et [illegible] explicando conditiones quas [illegible] debet [illegible] ratificatio [illegible] Sanchez de matrim. lib. 4 disp. [illegible] n. 1, 2 et 3 cum sequentibus quem [illegible] et sequitur [illegible] de matrim. d. c. 76 n. 21 [illegible] matrimonium [illegible] nullo modo sequitur quod in ratificatione [illegible] solemnitates [illegible] contra prædictam [illegible] doctrinam [illegible] communis et generalis [illegible] ad [illegible] contractum matrimonii in quo [illegible] celebretur cum solemnitatibus [illegible] contrahentium confirmetur et [illegible] non est necessarium ut iterum solemnitates [illegible] doctrinæ confirmationem [illegible] sententias [illegible] adducendo [illegible] Sanchez de matrim. lib. 2 disp. 37 n. 1 et sequentibus [illegible] in matrimonio nullo per [illegible] vel [illegible] contracto [illegible] nullitas [illegible] inter conjuges [illegible] non est necessarium ut iterum solemnitates [illegible] contra [illegible] doctrinam.

43 Cui gravissimæ difficultati omnibus [illegible] solutionibus [illegible] respondendum [illegible] quod si [illegible] resolutio procedit [illegible] nullitas procedat [illegible] consensus [illegible] causa [illegible] invaliditatem matrimonii nec [illegible] parocho et [illegible] quæ [illegible] dictis solemnitatibus nullitas quam contractus valid[i],

tas nec

[illegible] ad [illegible] contra [illegible] vel [illegible] non [illegible] nullitate [illegible] vel [illegible] matrimonio [illegible] solemnitatibus [illegible] nam probato publice et in foro exteriori impedimento [illegible] in foro exteriori [illegible] contrahentes [illegible] quando illa [illegible] occulta [illegible] solemnitates [illegible] impedimentum [illegible] probatum [illegible] vel ambobus est cognitum occulte [illegible] ratificatio [illegible] vel [illegible] contra [illegible] [illegible] Sanchez [illegible] crimen [illegible] [illegible] apostolicam [illegible] si fuerit crimen publicum [illegible] dispensandi nullo modo [illegible] concessa [illegible] quando [illegible] occultum vel quando [illegible] publicum [illegible] matrimonium est publice [illegible] ratificatio [illegible] solemnitatibus [illegible] Gregory [illegible] quando [illegible] 395 [illegible] Sanchez d. lib. 2 disp. 39 n. 11 [illegible] quod verum [illegible] [illegible] matrim. d. c. 7 lib. 32 [illegible] impedimento occulto ut ratificetur matrimonium requiruntur [illegible] solemnitates [illegible] matrimonio [illegible] contractum [illegible] nullum nec valere [illegible] resolvimus [illegible] professore [illegible] probabimus eodem [illegible] professore [illegible] nullam [illegible] ratificare [illegible] professorem [illegible]

est quod verum procedant solemnitates nec saltem ad professorem quod tamen intelligimus si alias nullitas [illegible] ratificatio fieret occulta si vero fieret publica et [illegible] contrarium [illegible] quando nullitas est [illegible] publicatum coram professore [illegible] non est necessarium est quod [illegible] ratificatio [illegible] solemnitatibus ad id requisitis ut nos [illegible] resolvimus proxime c. 12 n. 109 et 112 ideo [illegible] matrimonium [illegible] servandum esse.

Quae omnia [illegible] resoluta procedunt quando matrimonium est contractum per vim vel metum cadentem in constantem virum

44 [illegible] et sicut in ceteris contractibus [illegible] matrimonio [illegible] nullum est matrimonium [illegible] quando metus est [illegible] praesumitur in contractibus adesse voluntatem et consensum [illegible] matrimonium [illegible] contractum [illegible] nullum [illegible] quaestione [illegible] sententiae de quibus fundamenta et doctores [illegible] Sanchez de matrim. lib. 4 disp. 17 per totum [illegible] quod [illegible] in foro exteriori [illegible] metus [illegible] voluntatem et consensum et in matrimonio [illegible] contracto [illegible] voluntas praesumitur sed solum quando adest vis vel metus gravis [illegible] vel vis esse causam contractus [illegible] ideo non valet matrimonium at in foro interiori [illegible] matrimonium est [illegible] voluntate [illegible] in matrimonio requiritur libera et spontanea voluntas [illegible] attenta veritate [illegible] utrumque forum [illegible] Sanchez proximo d. disp. 17 n. 2. Abbas contra [illegible] sententiam [illegible] matrimonium [illegible] per vim vel metum gravem et cadentem in constantem virum non [illegible] legem [illegible] 3 [illegible] de [illegible] ad annullandum matrimonium [illegible] requiritur quod vis vel metus sit gravis et cadens in constantem virum [illegible] contrario [illegible] annullandum matrimonium [illegible] fundamenta [illegible] Sanchez d. disp. 17 n. 3. Sed [illegible] n. 4 [illegible] sententia [illegible]

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probabilis secunda vero est magis pro babilis; ego vero utramque primam opinionem esse magis veram ad esse in hac specie differentiam inter utramque sententiam eo quod ubi ex una in foro exteriori ad anullandum matrimonium requiritur vim vel metum cadentem in constantem virum [illegible] probatione in casu de quo judicandum est ex processu valida re relevandum c. fin. ubi commentatores [illegible] doctores de sententia et re judicat. c. per bonos 3 de offic. Sanchez lib. 4 ... art. 23 no 1 ... Sanchez lib. ... Joannes Gutierrez de matrim. c. 44 no 6 et [illegible] [illegible] Augustin. Barbosa in [illegible] lib. 1 votum 1 no 5 [illegible] de [illegible] hoc est probabile ... sacramenti et ideo in foro exteriori valet matrimonium et in foro interiori cum attendatur ad veritatem et Deus [illegible] loquitur [illegible] [illegible] non adest eidem [illegible] [illegible] probare [illegible] vel [illegible] de [illegible] fit in voluntate quae est essentia actus celebrationis matrimonii [illegible] attendendum et nullum esse matrimonium est judicandum ad quam adesse in hac specie differentiam [illegible] [illegible] [illegible] Sanchez [illegible] proxime [illegible] de [illegible] de bello [illegible] [illegible] obligatione [illegible] lib. 2 de matrim. q. 11 sect. 1 in versicul. ... [illegible] quamvis Joannes Gutierrez de matrim. c. 76 no 19 et 20 —

45 Ultimo contra [illegible] [illegible] [illegible] [illegible] obstat quod de juramento [illegible] [illegible] [illegible] [illegible] quod [illegible] contractus [illegible] [illegible] per juramentum vi vel metu [illegible] [illegible] juramentum nullum est nec contractus [illegible] valet nec ut [illegible] necessaria est juramenti relaxatio quod probatur [illegible] [illegible] [illegible] contingat [illegible] de [illegible] [illegible] ubi juramentum quod non vi nec metu est interpositum [illegible] valet [illegible] [illegible] [illegible] [illegible] juramentum vi vel metu [illegible] nullum est [illegible] [illegible] [illegible] [illegible] contractum [illegible] procedit sententia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ... [illegible] [illegible] de [illegible] [illegible] ... [illegible] [illegible] sacramenta [illegible]

ram c. [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] fundamenta [illegible] [illegible] adducta [illegible] Sanchez de matrim. lib. 4 d. 2 no 3 [illegible] [illegible] juramentum [illegible] [illegible] debeat nulli judicari [illegible] [illegible] [illegible]; Verum hoc fundamento non obstante non desunt aliqui plures doctores dicentes [illegible] quod [illegible] [illegible] contractibus [illegible] etiam juramento in quo etiam vi vel metu [illegible] valere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut praecedat juramenti relaxatio [illegible] juramentum interpositum in contractu nullo servari [illegible] [illegible] [illegible] [illegible] valere [illegible] [illegible] [illegible] juramentum et ideo necessaria est relaxatio [illegible] [illegible] [illegible] [illegible] proxime adductis [illegible] hanc sententiam [illegible] [illegible] Garcia de [illegible] [illegible] [illegible] 22 no 476 et 483 Covarruv. in 4. 2a p. c. 3. § 5 no 1 et [illegible] [illegible] [illegible] [illegible] 3 p. § 4 no 2 [illegible] [illegible] [illegible] c. 4 no 1 Antonius [illegible] in [illegible] lib. 5 c. 12 no 126 [illegible] [illegible] lib. 2 c. 3 no 12 et 13 [illegible] [illegible] [illegible] [illegible] 1 p. c. 57 no 19 [illegible] [illegible] [illegible] juramenti [illegible] 110 no 8 Pater [illegible] [illegible] [illegible] 1 tom. [illegible] disput. 149 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Pater Sanchez proxime d. [illegible] 20 no 4 quem sequitur [illegible] [illegible] de matrim. d. c. 76 no 44 [illegible] hoc non procedere [illegible] in juramento [illegible] pro matrimonio contrahendo [illegible] libere voluntatis [illegible] [illegible] [illegible] [illegible] etiam eandem sententiam tenendo non obstante [illegible] [illegible] cum contingat [illegible] [illegible] [illegible] [illegible] [illegible] Pater Sanchez d. [illegible] no 5 respondendum est quod [illegible] [illegible] [illegible]

46 de juramentum [illegible] vel [illegible] [illegible] [illegible] [illegible] in contractu nullo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] juramento [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nullus

declarans

declarauit. At vero quando iuramen-
tum per metum vim et dolum extortum interpo-
situm fuit contractum validum contra-
ctus reprobatum iure vtrumque metus
purgatus per iuramentum et contractus
metu [illegible] valet ex toto. [illegible]
ad [illegible] necessaria est relaxatio
[illegible] probatur
in c. si vero 8. c. verum 15. de iureiurando
quam distinctionem tradit Abbas n. 3.
allegato [illegible] 3. Febro n. 2. in d. c.
cum contingat, [illegible] distinctione
[illegible] in fra [illegible]
[illegible] communem et receptam sententiam esse
iuramentum per vim vel metum extortum
[illegible] necessarium esse
iuramenti relaxationem quo propter
[illegible] in d. c. cum contingat d. c.
verum et similes [illegible] relaxation
[illegible] iuramenti [illegible]
[illegible] iuramentum [illegible]
[illegible] absolutione et iuramenti rela-
xatione et [illegible] genera-
liter in omnibus contractibus [illegible]
[illegible] iura-
mentum per vim vel metum [illegible]
[illegible] Pontifices [illegible]
re nullam esse necessariam iuramenti
relaxationem tamen per vim vel metum
[illegible] iuramentum praestitum [illegible]
[illegible] quod [illegible]
[illegible] contra iuramentum
et [illegible] Ponti-
fex quod ab eo iuramento [illegible] per vim
necessaria sit relaxatio vel absolu-
tio iuramenti [illegible]
[illegible] contra
iuramentum ac contractum [illegible]
[illegible] et hoc generaliter
in omnibus contractibus [illegible]
[illegible] et [illegible] iuramentum per vim
est praestitum [illegible]
[illegible] in d. c. si vero et d. c. verum [illegible]
[illegible] absolutionem
et [illegible] ad nullam [illegible]
[illegible] propter
[illegible] iura-
mento [illegible] per metum praestito [illegible]
[illegible]
[illegible] partis vel metum [illegible]
[illegible] obligationem
[illegible] vel [illegible]

47

48

nec eximatur [illegible] relaxatione. [illegible]
consensus facile dimittit iuramenti
vinculum [illegible] contra iura-
mentum [illegible] authoritate et [illegible]
necessariam relaxationem et [illegible]
[illegible]
[illegible] Gregorius [illegible] verbo [illegible]
[illegible] 3. [illegible]
probare et [illegible] contrarium [illegible]
dat plures doctores [illegible]
[illegible] in praec. [illegible] decalogi lib. 3. c. 17.
n. 20. allegantes [illegible]
Cobbarr. in 4. decretalium [illegible] 2 p. c. 3. § 5.
n. 2. et in d. c. quamvis [illegible] 3 p. § 4. n.
2. et lib. 1. variarum c. 4. n. 7. [illegible]
re disputat [illegible]
[illegible] in authentica sacramenta pube-
rum n. 25. C. si adversus venditionem et in
casu quo contractus nullus [illegible] de-
[illegible] iuramentum est confirmatio-
[illegible] contractus nullus [illegible]
absolutionem [illegible] nec posse [illegible]
cum absolutionem vel relaxationem [illegible]
[illegible] Bald. [illegible]
n. 22. et 23. —

Unde sequitur quod si quis iurat contractum
[illegible] relaxationem
[illegible] iuramento est absolvendus
[illegible] iuramentum de non relaxando debet re-
laxari et relaxationem petit [illegible] Baldo in l.
[illegible] de iureiurando [illegible] n. [illegible]
iurando tradit [illegible] in authentica sacra-
menta n. 109. C. si adversus venditionem —

Nec obstat [illegible] in capite [illegible]
in ordine de iureiurando ubi iuramentum factum
a Praelato [illegible] per vim vel metum nullum
esse declaratur [illegible] respondet
[illegible] nullius
[illegible] quae [illegible]
[illegible] iuramentum [illegible]
[illegible]
[illegible] glossae [illegible]
[illegible] rebus ecclesiae
quam [illegible] et verum esse
[illegible] ecclesiae non alienare et [illegible]
[illegible] omnes [illegible]
[illegible]
[illegible] ut [illegible] de rebus ecclesiae
[illegible] c. [illegible] de rebus ecclesiae [illegible]
[illegible] de rebus eccle-
siae in [illegible] et quaestione
de relaxatione iuramenti non obstante [illegible]
[illegible] de iureiurando [illegible] iuramen-
to contractum [illegible]
et invalidum [illegible]
[illegible] in d. c. [illegible] ut

[illegible] quia posterior [illegible] quia secundum juramentum contra primum licitum non valet [illegible] probatur ut [illegible] [illegible] [illegible] [illegible] 33 de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 4 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 2a p. [illegible] libro 1o

49 Que sententia ex resolutione [illegible] generaliter intelligere [illegible] [illegible] contra [illegible] confirmati juramento [illegible] [illegible] [illegible] declara in [illegible] quod [illegible] juramento firmatus [illegible] validus [illegible] juramento firmaretur per juramentum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contra primum juramentum [illegible] [illegible] in validus [illegible] juramentum non [illegible] esse et secundum juramentum est [illegible] quo contra primum [illegible] [illegible] secundum [illegible] tamen [illegible] quando contra primum [illegible] juramento firmatum [illegible] [illegible] [illegible] ad [illegible] valorem non [illegible] [illegible] [illegible] juramentum quia [illegible] [illegible] [illegible] [illegible] agentis voluntate [illegible] contra primum juramentum [illegible] et firmatus juramento validus [illegible] [illegible] contra primum juramentum [illegible] [illegible] [illegible] quam sententiam [illegible] [illegible] [illegible] [illegible] [illegible] in preceptis decalogi lib. 3 c. 17 n. 9 [illegible] juramentum de quo [illegible] [illegible] secundum [illegible] [illegible] [illegible] contractum nullum et contra [illegible] [illegible] [illegible] valere et nullum esse [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] juramenti [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] esse nullum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Gregorii 15 [illegible] [illegible]

Unde sequitur [illegible] quod [illegible]

50 contractus [illegible] [illegible] nullus et [illegible] [illegible] juramento firmatus [illegible] juramentum est nullum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] juramentum [illegible] [illegible] [illegible] [illegible] [illegible] que sententia vera est in foro exteriori [illegible] quando agitur de [illegible] contractus juramento confirmatus [illegible] [illegible] [illegible] in foro

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interiori et conscientie necessaria est [illegible] juramenti relaxatio [illegible] [illegible] obligationem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] relaxationem ut [illegible] [illegible] [illegible] [illegible] relaxatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] juramento [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] juramento [illegible] 66 [illegible] [illegible] [illegible] [illegible] [illegible] concludit —

51 Ex quo [illegible] [illegible] in [illegible] [illegible] [illegible] contingentem circa juramenti relaxationem [illegible] [illegible] [illegible] omnes contractus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] secundum [illegible] et consuetudinem [illegible] [illegible] semper firmentur juramento [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tempore [illegible] [illegible] contra contractum [illegible] quod [illegible] [illegible] [illegible] [illegible] [illegible] relaxandi juramentum [illegible] [illegible] [illegible] parte [illegible] [illegible] [illegible] juramentum [illegible] [illegible] contractus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] relaxatio juramenti [illegible] [illegible] obligatio [illegible] [illegible] [illegible] contractus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad forum [illegible] [illegible] [illegible] quod [illegible] forum pertinent [illegible] [illegible] principali [illegible] [illegible] absolutio [illegible] necessario [illegible] da est [illegible] ut valeat [illegible] juramenti relaxatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] firmandum [illegible] de jure-

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jurando [illegible] [illegible] lib. 1 c. 4 n. 5 at vero quando relaxatio juramenti [illegible] in foro conscientie nulla est necessaria [illegible] [illegible] [illegible] relaxationem [illegible] [illegible] non [illegible] [illegible] contractum vel juramentum [illegible] in eo foro [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] ad esse [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in preceptis decalogi lib. 3 c. 21 n. 28 in [illegible] [illegible] —

Verum tamen

Ubi autem contra vobis accedit, et quod dicendum quoties relaxatio iuramenti petitur ad effectum agendi vel excipiendi videlicet quoties qui contraxit negat [illegible] factum pero contra illum servatum ei [illegible] vult agere ad revocationem ipsius contractus sive ad effectum excipiendi si quis petat [illegible] et de fide [illegible] protocatus in [illegible] sare excaptiones de [illegible] sive non [illegible] ei iuramentum agendo vel excipiendo debet relaxari et [illegible] relaxatio et concedenda est nulla partis citatione facta sed [illegible] sola relatione petentis implorato iudicis officio quam plures Doctores [illegible] [illegible] [illegible] probata [illegible] parte fundamenta quae contra omnis [illegible] [illegible] communis et praxi admissa resolutio est quod ita obligatus qui contraxit petat [illegible] absolutionem ad effectum agendi inter [illegible] implorato iudicis officio [illegible] praxi [illegible] sed non [illegible] quae praxis ea ratione fundatur quia per talem relaxationem solum agitur de habilitate ad agendum vel excipiendum [illegible] requiritur [illegible] citationis [illegible] [illegible] quia non agitur in dicta relaxatione concedenda de gravi [illegible] interest [illegible] contra [illegible] obligationem [illegible] [illegible] agitur de negotio principali et de [illegible] contractu [illegible] non [illegible] debere procedere partis citationem [illegible] contradicto parte non [illegible] impedire eam relaxationem cum [illegible] causa [illegible] relaxatio ad effectum solum agendi vel excipiendi quae regulariter [illegible] [illegible] alterius partis [illegible] contra regulam [illegible] [illegible] 17 de regulis [illegible] [illegible] [illegible] [illegible] concedenda [illegible] relaxatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contra [illegible] 36 de officio et potestate [illegible] [illegible] [illegible] 4 de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 24 de [illegible]

certe communem et praxi receptam resolutionem [illegible] Doctores [illegible] Cobarruvias [illegible] lib. 1 c. 4 n. 6 Pater Sanchez in [illegible] lib. 3 c. 21 n. 2 [illegible] [illegible] [illegible] [illegible]

Ex quorum Doctorum dictis ut omnia ad praxim [illegible] [illegible] colliges primo quod [illegible] iudex qui de hoc relaxatione tractare et cognoscere potest [illegible] pars qui intendit agere vel excipere debet recurrere et dico quod debet esse iudex [illegible] [illegible] [illegible] [illegible] relaxationem cum agatur de iuramento quae est [illegible] [illegible] [illegible] [illegible] praeparandum [illegible] [illegible] competens [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Sanchez d. c. 21 n. [illegible] quod [illegible] [illegible] [illegible] relaxationem iuramenti et declarare non esse [illegible] contractu obligationem [illegible] necessaria est citatio et causae cognitio quia [illegible] iudex [illegible] [illegible] potest [illegible] ad servandum iuramentum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] observantiam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] potest [illegible] ut [illegible] obligationem iuramenti [illegible] [illegible] [illegible] [illegible] [illegible] Pater Sanchez in [illegible] d. lib. 3 c. 22 n. 1 et 2 [illegible] [illegible] [illegible] [illegible] 149 n. 3 vers. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] relaxationem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut ad effectum agendi vel excipiendi relaxet et [illegible] praxi [illegible] et [illegible] [illegible] [illegible] [illegible] et non ad [illegible] [illegible] Cobarruvias d. 4 n. 5

Secundo colliges quod iudex [illegible] debeat relaxare an [illegible] [illegible] et contractus vel domicilii [illegible] non solum iudicem domicilii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contractus et [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] relaxationem iuramenti [illegible]

et concedere queat acciore contrahentes con trahentes in eo loco forum sortiuntur et ibi de foro competat quae sit interea in l. [illegible] quoties agitur in foro [illegible] de contractibus obligationibus [illegible] laxatio juramenti petatur in foro exte riori, et consequenter relaxatio jura menti in eo foro peti ac judicem contrahentes sed et judicem domicilii [illegible] ad [illegible] elegantem de [illegible] Rem [illegible] Sanchez proxi me d. l. 6. c. 21. n. 31.

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95 Ut de intelligi quod diximus pro xime n. 53 debere concedere hanc re laxationem judicem ecclesiasticum ha bentem jurisdictionem [illegible] vel quasi debet intelligi quoties agitur judicialiter ad agendum de contractibus [illegible] judicialiter hanc relaxatio judex debet esse qui jurisdictionem habet [illegible] in territorio vel domicilio [illegible] ut proxime dictis at quando rela xatio petitur in foro conscientiae non judicialiter sed [illegible] in foro animae confessorium [illegible] [illegible] vel alium [illegible] facul tate posse concedere hanc relaxa tionem [illegible] confessarius ju risdictionem haberet [illegible] ordinariam vel delegatam [illegible] in eo foro conscientiae [illegible] absolvere a peccatis et [illegible] respectu poenitentis in quo confes [illegible] habet jurisdictionem in eo foro [illegible] concedere [illegible] relaxationem arg. [illegible] jurisdictionem [illegible] omnia quae ad illam spectant [illegible] esse concessa [illegible] in proposito [illegible] Salgado de [illegible] reg. protectione [illegible] doctores [illegible] p. [illegible] c. 2 [illegible] 190 [illegible] resolvendum quoties ea relaxatio petitur in foro exteriori apud judicem ecclesiasticum proprium interiori [illegible] [illegible] confessarius con fessionem [illegible] proxime resolvimus, ut eodem modo qui re laxationem concedere potest [illegible] de domicilio [illegible] loca contractus ita resolvit Pater San chez proxime d. c. 21. n. 36.—

96 Sed accidere potest quod alter contrahentium sit domiciliarius [illegible] alter vero alterius, ad quem rela xatio juramenti pertineat [illegible] in proposito [illegible] quod [illegible] [illegible] [illegible] [illegible] juratum est quia [illegible] [illegible] concordat juramentum [illegible] [illegible] [illegible] [illegible] [illegible] concordat [illegible] contra [illegible] hanc relaxationem [illegible] praelatum [illegible] contrahentis [illegible] et in loco alterius contractus [illegible] quae petens relaxationem [illegible] est hic praelatus qui solet agi de tolerando [illegible] [illegible] res quod quando [illegible] circa personam [illegible] [illegible] [illegible] nec obstat [illegible] pro contraria opinione quae debet [illegible] concordare obligationem aut relaxatio nem [illegible] relaxatio [illegible] juramenti vel [illegible] obligationis [illegible] per proprium [illegible] praelatum [illegible] [illegible] et hoc [illegible] [illegible] domicilii ut proxime diximus et notare [illegible] [illegible] pro utraque [illegible] doctores [illegible] Pater San chez d. c. 21. n. 33 [illegible] sequentibus.

Tertio colligere etiam potest [illegible] quod si petitur relaxatio apud judicem ecclesiasticum [illegible] domicilii [illegible] [illegible] coram eodem judice

97 [illegible] contrahentes agere [illegible] [illegible] [illegible] non posse nec judicem [illegible] ad illud [illegible] [illegible] relaxatione juramenti [illegible] [illegible] sed re [illegible] ad judicem [illegible] [illegible] [illegible] ad judicem [illegible] [illegible] jurisdictionem ad [illegible] [illegible] [illegible] judicem [illegible] [illegible] contra judicem ecclesiasticum [illegible] interponere et [illegible] [illegible] judicis [illegible] [illegible] [illegible] quamvis [illegible] [illegible] [illegible] quod non [illegible] pro relaxatione concede [illegible] [illegible] [illegible] [illegible] judicem [illegible] [illegible] [illegible] l. 6. c. 4. n. 3. [illegible]

[illegible]

[illegible] melior aliorum [illegible] per [illegible] 2° p. c. 9 n° 37 et 38.

Quarto colligeres in praxi [illegible] quod concessa relaxatione juramenti ad effectum agendi [illegible]

98 [illegible] contractus non remanet ipso [illegible] ut vulgo [illegible] contractum intelligens sed solum [illegible] impedimentum ut [illegible] agere vel [illegible] vel proponere exceptiones vel [illegible] causae vel obligationis [illegible] videndum est quod contractus [illegible] quod per juramentum [illegible] quia [illegible] superiorem [illegible] non obstante relaxatione contractus [illegible] juramento [illegible] contractum [illegible] relaxatione [illegible] et contractus debet [illegible] Antonius Gomes Variarum 2° tom. c. 9 n° 21 et [illegible] Joannes Gutierr. [illegible] n° 20 [illegible] verdictionem —

Redeundo ad propositum [illegible] quia [illegible] relaxationis juramento [illegible] contractus vel [illegible] per vim vel metum [illegible] per actionem quod metus causa et implorato [illegible] contractum [illegible] contractus [illegible] per metum [illegible]

99 [illegible] contractus in quo [illegible] per metum [illegible]

[illegible] contractus [illegible] celebrari debent intelligi [illegible] contractus et [illegible] eadem ratione [illegible] minorum [illegible] solutiones [illegible] de legibus [illegible] glos. 5 n° 5 [illegible] Hieronymus [illegible] Cancellar. [illegible] n° 170 et nos diximus supra lib. 4° c. 4° n° 19 [illegible] per [illegible] (quando [illegible] (de [illegible] c. 93 n° 12 [illegible] quod nos diximus supra lib. 1° c. 9 n° 12 [illegible] supra lib. 3° c. 2° n° 325 [illegible] contractus [illegible] quod metus causa est [illegible] celebrationem [illegible] 103 n° 69 [illegible] de [illegible] lib. 4° [illegible] 12 n° 29. —

60

Plura [illegible] contractus [illegible] quod [illegible] metus [illegible]

61 [illegible] Antonio de Butrio in c. [illegible] n° 1 [illegible] Gregorius [illegible] 15 [illegible] 32 [illegible]

62 [illegible] metus [illegible] quod metus causa [illegible] partita 4ª [illegible] 33 partita 5ª [illegible] quod metus causa [illegible] metus [illegible] quod metus causa [illegible] 4° [illegible] c. 3° 84 n° 3° [illegible] 135 [illegible] 4° [illegible]

29 ff. 1° art. 1° vbi Suarez art. 3 et sequentibus Bul. Baldus in l. legem C. de lib. [illegible] per metum judicis non appellabitur [illegible] metum a certi mentem [illegible] arbitrij Pater Sanchez de matrimonio lib. 4 disp. 1 n° 1 Augustin Barbosa in votis lib. 1 voto 1 n° 99 [illegible] metum esse [illegible] voluntati [illegible] lib. 56 glos. 1 n° 19 et 5 [illegible]

Ex quadam ratione Primo colliges metum [illegible] causas praesentes vel futuras [illegible] periculi praesentis vel propinqui [illegible] debere esse ad minus in [illegible] quia [illegible] verum metum [illegible]

63 [illegible] gravissimis causis [illegible] quia valde [illegible] contrahentes [illegible] l. metum [illegible] ff. de eo quod metus causa l. [illegible] 144 ff. de reg. jur. l. [illegible] ab alio 13 ff. de [illegible] l. metum [illegible] de his quae vi [illegible] l. [illegible] de his quae vi [illegible] constitutione 13 de [illegible] Sanchez de matrim. lib. 4 disp. 1 n° 9 [illegible] glos. 17 n° 2 lib. 27 [illegible] Augustinus in sermone [illegible] Barbosa [illegible] lib. 1 voto 1 n° 11

Secundo colliges metum [illegible] contrahentes [illegible] debet esse [illegible] verum quia non [illegible]

64 [illegible] l. interpositas 14 C. de transactionibus l. [illegible] voluntas 8 [illegible] C. de [illegible]

l. [illegible] 4° C. de his quae vi [illegible] l. si quis [illegible] C. de [illegible] de his quae vi [illegible] constitutione 13 [illegible] quidem [illegible] vir constantem [illegible] quasi [illegible] praelatos [illegible] etiam [illegible] est tamen [illegible] quod [illegible] potentes [illegible] quod dicunt [illegible] facere solent [illegible] vel [illegible] Mascardus de probationibus 2° tom. conclusione 1054 n° 13 [illegible] in hoc [illegible] virum constantem

65 [illegible] probabile [illegible] Sanchez [illegible] lib. 4 [illegible] n° 15

Tertio colliges quod [illegible] regula [illegible]

66 vel [illegible] virum [illegible] arbitrio prudentis judicis l. metum [illegible] glos. verb. [illegible] judicis [illegible] l. metum [illegible] ff. quod metus causa [illegible] glos. verbo metum [illegible] l. interpositas C. de transactionibus glos. verbo metum [illegible] de his quae [illegible] Menochius de arbitrarijs lib. 2° centur. 2° casu 135 n° 3, 4, et 5 et casu 136 [illegible] Mascardus de probationibus 2° tom. conclusione 1054 n° 21 [illegible] lib. [illegible] 2 [illegible] c. 3 § 4° n° 3° Rodericus [illegible] Baldus [illegible] in d. l. interpositas [illegible] de

nobilitate

non obstante d. glos. 17 nº 40 Joan. Gu
tierrez consil. 16 nº 13 Marcus Antonius
Cuccus Mascard. in inst. lib. 5 tit. 12 nº ibi
et dicens hanc esse rationem quia de
primi non possunt omnes casus in spe
cie [illegible] in quibus causae inducen
tes ad arbitrandum metum plures
reperiri et plura in materia a proposito
adducenda quae videnda sunt
disputationes [illegible] Pater Sanchez
d. lib. 4 disp. 5 a nº 1 et per [illegible]
plures per integram columnam
Hermosill. in d. l. 56 glos. 2 nº 29
tit. 5 parti. 4 a. et in [illegible] esse
in metu reverentiali vide Joannes
Garcia de nobilit. glos. 17 nº 4 Joan
nes Gutierr. de matrim. c. 77 nº 4 Et
certe hoc non solum esse receptum
in foro conscien. sed etiam in exterio
ri in quo sufficiens metus debet iudicari
secundum prudentis confessoris ar
bitrium et hoc solum procedere in
casibus a iure non expressis nam in ex
pressis non datur iudicis arbitrium
cum satis sit ius declarasse in illo ca
su metum esse sufficientem pro quo
arbitrio declarando videnda sunt a
nobis resolvenda infra nº 119.

(67) Nec his obstat lex in d. l. 7 tit. 33
parti. 7 ubi ita dicitur [illegible] de miedos
que metus en latin tanto quiere decir
en romance como miedo de muerte o
de tormento de cuerpo o perdimiento de
miembro o de perder libertad o las
cartas por que la podria amparar o de
recibir deshonrra por que fincara
enfamado e de tal miedo como este
o de otro semejante fablan las leyes
deste nuestro libro [illegible] porque verba
Villalobos [illegible]
nº 72 [illegible] sublatum
esse in hoc specie arbitrium iudicis
per expressionem casuum de quibus in
d. l. 7 [illegible] sed certe omnes resolvunt contra
rium dicentes quod expressio casuum
in d. l. 7 solum esse factam causa exem
pli quae exempla non [illegible] regu
lam [illegible] sublatum iudi
cis arbitrium [illegible]
[illegible]
[illegible] verbo [illegible] generaliter ad
mittens [illegible] non expressos ad quos
arbitrium iudicis extenditur et [illegible]
[illegible] praedictam [illegible]
[illegible] in hoc specie
[illegible] inter [illegible]
et [illegible]

[illegible] Gutierrez ubi proxime
Quarto [illegible] notabis [illegible] quod
hoc prudentis arbitrium [illegible]
[illegible]
(68) [illegible]
[illegible] qui metum
passus esse allegavit et secundum [illegible]
personae [illegible] iudicari so
let arg. [illegible]
[illegible] singulorum non
solum [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] plura in proposito plures Doctores
adducendo [illegible] Pater Sanchez de ma
trim. lib. 4 disp. 1 a nº 19 ad 20 cum sequen
tibus [illegible]
[illegible] feminam [illegible]
[illegible] in viro [illegible] iu
dicabit [illegible] minores causa [illegible]
[illegible]
[illegible]
supra lib. 3 c. 8 nº [illegible] et lib. 4 c. 16 nº 1
et plura in proposito adducendo resolvit
[illegible]
[illegible]
[illegible]
quod frequenter [illegible] et ad quod atten
dendum est quod secundum casum ratio
[illegible]
[illegible]
(69) [illegible] glosa verbo me
tus [illegible]
[illegible]
c. 3 § 4 nº [illegible]
gorius Lopez [illegible]
quo [illegible] Joannes Gutierr. de matrim. c. 4
[illegible] Marcus Antonius Cuccus Mascard.
[illegible] lib. 5 tit. 12 nº [illegible] et similiter
(70) [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] ubi proxime et
Doctores [illegible]
[illegible] lib. 2 c. 3 nº 10 Salmiento
[illegible] c. 11 nº 1 [illegible]
[illegible] 3 p. c. 20 nº 19 [illegible]

[illegible] lib. 5. [illegible] 12 nº 162 [illegible] Menochius de arbitrariis lib. 2. centur. 2. casu 135 nº 4 et 5 [illegible] de consiliis ultim. voluntat. lib. 2. tit. 1 nº 7. Joannes Garcia de nobilit. glos. 17 nº 3. Joannes Gutierrez [illegible] 16 nº 3 et 13 et alios plures [illegible] theologos et [illegible] Sanchez de matrim. lib. 4. disp. 23 nº 1. 4 et [illegible] Joannes Gutierrez de matrim. [illegible] 77 nº 2 et sequentibus [illegible] 15 [illegible] 326 nº 25 et 26. Augustinus Barbosa in [illegible] lib. 6. 1. voto 1. nº 22 usque ad 26.

Quarto colliges et notabis eandem causam [illegible] ad [illegible] vel [illegible] [illegible]

71 [illegible]

[illegible]

[illegible] Barbosa d. lib. 1. voto 1. nº 27 et sequentibus et nº 129 et 130. —

Quae sententia vera [illegible]

72 [illegible]

73 [illegible]

[illegible]

tam causam ad rescindendum metum praecessisse de quo Alexander [illegible] lib. 3 n. 11 Barbosa consil. 53 n. 5 [illegible] de solutionibus in [illegible] gregorij 15 [illegible] 326 n. 43.

Sexto colliges et ad [illegible] quod ad declarandum actum esse nullum per metum debeat attendi an metum passus potuerit evadere metum et occasionem [illegible] vel quia [illegible] habuit [illegible] ad metum [illegible] implorando auxilium [illegible] personarum vel [illegible] quod [illegible] metu [illegible] periculum [illegible] enim non [illegible] in [illegible] quod [illegible] probari [illegible] in [illegible] de electione [illegible] nova [illegible] postulandi [illegible] postulare et non [illegible] per quem [illegible] verbo metus n. [illegible] lib. 9 c. 12 n. 155 [illegible] d. [illegible] 1a n. 23. —

Septimo colliges quod quamvis [illegible] diximus n. 37 metum illatum culpa parentis non [illegible] ad rescindendum contractum per metum factum quia metum passus est in culpa, contamen in metu inferente [illegible] dolus [illegible] contractus metu [illegible] nullus [illegible] n. 19 [illegible] potius debere attendere ad dolum inferentis quam ad culpam metum passi [illegible] arbitrari [illegible] secundum qualitatem doli [illegible] secundum qualitatem negligentiae et culpae [illegible] in l. [illegible] 98 [illegible] legem [illegible] dolo [illegible] gloss. 1 n. 21

Octavo colliges [illegible] quod metus causa ad rescindendum contractum non solum [illegible] posse et [illegible] restitutione [illegible] annullare contractum qui metum intulit [illegible] contra illos qui [illegible] metum [illegible] fuerunt [illegible] in l. metum [illegible] cum exceptione 14 [illegible] cum lege sequenti ff. de eo quod metus causa [illegible] dis d. [illegible] 1054 n. 13 [illegible] metum [illegible] esse [illegible] contra [illegible] metum non esse necessarium probare [illegible] sed propter [illegible] metus [illegible] ad annullandum contractum [illegible] quod adeo procedit [illegible] contractum [illegible] exceptione 14 [illegible] de his quae [illegible] verba per [illegible] etiam [illegible] contra partem [illegible] metus [illegible] quod in [illegible] metus causa [illegible] eorum qui metum intulerunt [illegible] per [illegible] dolo et delicto [illegible] quod diximus [illegible] in heredem [illegible] verba in heredem [illegible] quod pervenit ad [illegible] quod [illegible] 19 [illegible] metus causa [illegible] de delictis [illegible] metus causa tam in id quod ad primos heredes pervenit [illegible] heredes nec est necessarium quod [illegible] heredem [illegible] omnes [illegible] in

[illegible] et comm[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] videndus Hermosilla in l 56 glos 1ª nº 34 usque ad 42 —

Nono colliges ex ad[illegible] hanc actionem quod metus causa competere etiam contra tertium rei possessorem 77 qui metum non intulit, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] possessorem contra quem [illegible] vel metum passus agere posset ad contractum annullandum et [illegible] sibi restituendam [illegible] ut d l metus § [illegible] [illegible] ubi quod [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] l item si cum exceptione 14 § in hac actione ubi in hac actione non quaeritur utrum [illegible] d l item si cum exceptione 14 § [illegible] [illegible] [illegible] [illegible] [illegible] metus causa l [illegible] vel metu [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] l sed et [illegible] possessorem [illegible] Doctores [illegible] [illegible] [illegible] Garcia d glos 17 nº 29 [illegible] [illegible] [illegible] [illegible] nº 22 et 36 [illegible] [illegible] [illegible] primog lib 2º c 3º nº 12 [illegible] [illegible] [illegible] [illegible] nº 1 [illegible] [illegible] [illegible] [illegible] [illegible] 3º tom c 5 § 4º nº 1 [illegible] [illegible] [illegible] resolvit Hermosilla d glos 10 nº 43 in d l 56 tit 5 partita 5 [illegible] nº 4 [illegible] alios Doctores [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contra reum [illegible] [illegible] [illegible] [illegible] [illegible] possessorem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contractus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] debere [illegible] [illegible] [illegible] [illegible] [illegible] possessorem

Sed hoc [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contra quemcumque rei possessorem [illegible] ut d l item si cum exceptione 14 § in hac actione [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nº 46 [illegible] [illegible] [illegible] [illegible] 221 nº [illegible] [illegible] Hermosilla d glos 1ª nº 47 et 48 —

Decimo colliges hanc actionem quod metus causa non solum procedere contra metum 78 inferentem sed etiam contra quemcumque rei possessorem [illegible] l quinto loco 173 [illegible] [illegible] 192 [illegible] 199 § [illegible] ut d l item si cum exceptione 14 § [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 18 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 23 [illegible] [illegible] [illegible] [illegible] 25 § [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Hermosilla in d l 56 glos 1ª a nº 49 usque ad 54

54 et 5 parte ga.

Undecimo colliges et [illegible] tenetur quod metus causa celebra[illegible] [illegible] quando metum passus vel tertius [illegible]

79 [illegible] vel contractus [illegible] [illegible] [illegible] probatum [illegible] per metum fuit [illegible] contractus celebratus vel damnum [illegible] fuit [illegible] non interest [illegible] de [illegible] quam [illegible] solet [illegible] quatuor [illegible] Prima [illegible] ut [illegible] ad [illegible] quod metus [illegible] fuit consecutus non vero ad [illegible] [illegible] Secunda [illegible] contra [illegible] agere [illegible] passus ad contractus [illegible] [illegible] quod [illegible] ad [illegible] vel [illegible] vel [illegible] Quarta [illegible] competere ei qui metum passus est, [illegible] [illegible] [illegible] [illegible] l. non interest ad finem [illegible] quod [illegible] probabile [illegible] et [illegible] [illegible] [illegible] et ratione [illegible] metum [illegible] [illegible] nullum est [illegible] non causat damnum [illegible] contractu [illegible] eo quod metus [illegible] est celebratum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] metum passus [illegible] damni [illegible] [illegible] l. 1 l. contract 3 l. [illegible] 12 [illegible] [illegible] [illegible] [illegible] [illegible] de eo quod metus causa [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] lib. 3 c. [illegible] [illegible] [illegible] [illegible] [illegible] gl. 1 n. [illegible] 5 parte ga.

Duodecimo colliges et [illegible] [illegible] [illegible] [illegible] [illegible] ratione metus competere non solum quando [illegible] [illegible] propriae personae metum [illegible] [illegible]

80 etiam quando in persona coniuncta [illegible] [illegible] [illegible] damnum [illegible] filio vel [illegible] [illegible] metus [illegible] [illegible] metu compulsus [illegible] [illegible] contractum celebra[illegible] vel [illegible] quod promiserat [illegible] metus [illegible] [illegible] [illegible] l. [illegible] quidem [illegible] [illegible] de eo quod metus causa [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] parentes [illegible] in liberis [illegible] [illegible] [illegible] metum [illegible] carceratione filii [illegible] [illegible]

81 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 8 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 2 tom. conclus. 1054 n. 30 et sequentibus [illegible] [illegible] [illegible] lib. 2 c. [illegible] 5 [illegible] n. 50 [illegible] [illegible] [illegible] [illegible] [illegible] de eo quod metus causa [illegible] [illegible] [illegible] gl. 1 [illegible]

82 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 21. 35 q. 3 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 3 q. 3 n. 20 facit illud [illegible] gl. [illegible] gl. [illegible] 30 parte [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

83 vel ad minus [illegible] c. 3 [illegible] gl. [illegible] n. 50 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] lib. 4 [illegible] 4 n. 1 [illegible] [illegible] [illegible] gl. 1 n. 56 [illegible] [illegible] 5 parte 5 [illegible] [illegible] [illegible] [illegible] [illegible]

84 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 2 [illegible] [illegible] [illegible] [illegible] [illegible] Baldum in repete

Lib. 1° col. 6ª [illegible] Vadr. et sequitur Mascardus proxime d. conclus. 1059 nº 9 et ello [illegible] Vela patrifilio competit actio quod metus causa [illegible] per [illegible] ibi in alterco [illegible] gloss. 3ª nº 1 d. t. 1 lib. 5 recopilationis et idem in ascendentibus et descendentibus [illegible]

89 [illegible] Gram. [illegible] 12 [illegible] contrarium [illegible] Vadr. pater [illegible] proxime d. disp. 4ª nº 4 [illegible] tibus in [illegible] 4 p. [illegible] Mascardus proxime quem sequitur [illegible] resolvendo [illegible] Vadr. Hermosilla proxime d. glos. 1ª nº 57 [illegible] [illegible] omnes [illegible] [illegible] alegari [illegible] 4º [illegible] Cavedo [illegible]

86 [illegible] dam [illegible] propter [illegible] metus quam [illegible] [illegible] Gutierrez [illegible] c. 2º in fine [illegible] [illegible] [illegible] Vadr. glos. [illegible] [illegible] theologos et [illegible] [illegible] d. disp. 4ª nº 3 et [illegible] Gutier. [illegible] [illegible] actio nº 18 [illegible] [illegible] Vadr. Hermosilla d. glos. 1ª nº 57 ad finem proxime et quod [illegible] videtur [illegible]

87 [illegible] ad famulos domesticos et [illegible] [illegible] domini [illegible] metus [illegible] [illegible] contrario [illegible] remedium [illegible] quod [illegible] doctores [illegible] [illegible] metus [illegible] [illegible] Vivian [illegible] [illegible] Gutierrez proxime d. disp. 4ª nº 10 [illegible] Hermosilla proxime d. glos. 10 nº 59 Joannes Gutierrez de matrim. c. 77 nº 26.

Decimo tertio [illegible]

88. [illegible] actionem quod metus causa [illegible] principaliter qui metum passus fuerit etiam competere [illegible] heredibus et successoribus [illegible] [illegible] actionibus [illegible] [illegible] principaliter ad [illegible] actus metu [illegible] [illegible] [illegible] quod diximus lib. [illegible] actio [illegible] eo quod metus causa ubi hec verba [illegible] actio [illegible] [illegible]

[illegible] haber [illegible] [illegible] Bart. [illegible] doctores [illegible] in fine [illegible] nº 15 [illegible] [illegible] Gutierrez [illegible] [illegible] Hermosilla proxime d. glos. 1ª nº 61 [illegible] 56 [illegible]

Decimo quarto [illegible] [illegible] an hec actio quod metus

89 causa procedat et habeat locum [illegible] quando eodem modo erat permissa [illegible] dominium et [illegible] [illegible] metum vel alium [illegible] [illegible] [illegible] et quod [illegible] [illegible] metus [illegible] [illegible] dominium [illegible] hec actio quod metus causa nec agi potest ad rei restitutionem [illegible] [illegible] exceptione nº 148 [illegible] ubi glos. verbo [illegible] [illegible] eo quod metus causa quod procedit in bona fide [illegible] [illegible] [illegible] [illegible] [illegible] interpelatus [illegible] [illegible] procedere etiam [illegible] [illegible] qui metum [illegible] [illegible] [illegible] interpelatus et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in quadruplo hoc est ad rei [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in quadruplum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Vadr. Hermosilla in d. l. 56 glos. 1ª nº 116 ubi nº 117 [illegible] procedere in bona fide [illegible] [illegible] [illegible]

Decimo quinto [illegible] in hac actione quod metus causa venire non solum [illegible] omnes fructus perceptos [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptione 148 [illegible] verss. quadrupla [illegible] [illegible] eo quod metus causa c. 2º ad finem [illegible] [illegible] disp. 3ª nº 10 [illegible] Hermosilla proxime d. l. 56 glos. 1ª nº 119

Decimo sexto etiam in [illegible]

vedebas

91 [illegible] quod si contractus per metum [illegible] factus [illegible] causa metus [illegible] [illegible] metum passus [illegible] [illegible] contractus [illegible] [illegible] metus et [illegible] non [illegible] ei obstat illa voluntaria ratificatio [illegible] per vim [illegible] 12 [illegible] 3. praesumpt. 12 [illegible] 33 Joannes [illegible] glos. 17 nº 42 [illegible] conclusione 214 nº 17 [illegible] conclus. 1054 nº 35 [illegible] 92 et [illegible] 878 et alios plures [illegible] glos. 1ª nº 122 [illegible] contractu matrimonii professionis et similibus [illegible] doctores et alii [illegible].

92 Decimo septimo [illegible] quod [illegible] possessorem metu [illegible] quod metus causa [illegible] quod metus causa [illegible] de Castro [illegible] 30 nº 12 cum speculatore [illegible] quod metus [illegible] competit et alios [illegible] glos. 1ª nº 121.

93 Decimo octavo [illegible] quod [illegible] contractu metus [illegible] non potest [illegible] contra contractum venire [illegible] contractu [illegible] quod metus causa [illegible] contractu [illegible] illatum metum [illegible] causa [illegible] [illegible] 262 nº 6 [illegible] conclus. [illegible] nº 6 [illegible] verbo metus nº 8 [illegible] glos. 1ª nº 128 in l. 56. [illegible] 5 parte 50.

94 Decimo nono [illegible] quod [illegible] contractum [illegible] obligationem [illegible] metus [illegible] contractum [illegible] [illegible] non potest agi contra [illegible] metum [illegible] principalem [illegible]

contrahere [illegible] 148 [illegible] per vim [illegible] metus causa [illegible] per metum [illegible] per vim [illegible] 10 [illegible] contractus [illegible] quod metus causa [illegible] [illegible] contractum [illegible] contractu [illegible] metus quod [illegible] contractu [illegible] 14 nº [illegible] metus causa [illegible] 4ª [illegible] nº 23 [illegible] 3. praesumpt. 126 nº 30. [illegible] verbo metus conclus. 213 nº [illegible] glos. 2ª nº 35 in l. 56 [illegible] 5 parte [illegible].

Quo [illegible] nº 64 [illegible] metum [illegible] nº 65 [illegible] nº 67 [illegible] metus [illegible] et vim [illegible] Doctores [illegible] [illegible] corporis [illegible]

95 [illegible] quod metus causa [illegible] 4 [illegible] 33 [illegible] c. 77 nº 6.

96 Secundo [illegible] metus [illegible] contractu [illegible]

et § que a rat adfuerit ... armorum in ... armis ... [illegible] ... ratur que ... arma l. ... 2 parte 4 ... de probation 2 tom. conclus. 1054 nº 49 ... Scola a ... gregor. 15 decis. 326 nº 38 ... Joannes Gutierr. consil. 16 nº 8 ... Joannes Gutierrez de iuram. d. c. 77 nº 8.

Tertio ... [illegible] ... quando a ...

97 ... [illegible] ... l. 4 ... quedam 8º ... l. 13 tit. 2 parte 4 ... 7 tit. 33 parte 5 ... [illegible]

98 Quarto ... [illegible] ... Joannes Gutierr. de iuram. d. c. 77 nº 9.

99 Quinto ... [illegible]

100 Sexto ... [illegible] ... nº 81 ... [illegible]

101 Septimo ... [illegible] ... probat. 2 tom. conclus. 1054 nº 53.

102 Octavo ... [illegible] ... d. l. 7 tit. 33 parte 5.

103 Nono ... [illegible] ... d. l. ... quedam 8 ... d. l. 13 tit. 2 parte 4 ... [illegible]

Decimo ... [illegible]

104 ... [illegible] ... d. c. 77 nº 11.

105 Undecimo ... [illegible] ... l. 13 § 4 ... [illegible] ... l. 56 glos. 1ª nº 106 tit. 5 parte 5 ... [illegible] ... de probation 2 tom. conclus. 1054 nº 50 ... [illegible] ... de iuram. lib. 4 dis. 5 nº 7 et 8.

Joannes Gutierrez de iuram. d. c. 77 nº 12.

106 Duodecimo ... [illegible] ...

in ... respectu

ut resolvit Mascardus proxime d. conclusione 1054 n.º 54, sed verius est quod saltem si fieri omnium bonorum vel maioris partis aliquorum seu alicuius rei [illegible] de [illegible] ab illis posse [illegible] causa fieri ex [illegible] fore [illegible] valoris [illegible] praeiudicium, nihilominus non posset dicere [illegible] nec evidentem in constantem virum cadere, [illegible] beneficio convenienter secundum [illegible] [illegible] allegatum n.º [illegible] resolvens Thesaurus Gregorius 15 de usu 326 n.º 19 ubi idem resolvit de [illegible] Joannes Gutierrez d. c. 77 n.º 13.

107 Decimo tertio [illegible] metus cadere in constantem virum [illegible] retinere [illegible] ab aliquibus non idem in [illegible] quod quidem [illegible] debet [illegible] ad quae [illegible] quod [illegible] in [illegible] metum posse eodem [illegible] aliquod [illegible] propter [illegible] [illegible] metus cadit in constantem virum de quibus omnibus latissime [illegible] per plures doctores et doctores adducendo Pater Sanchez de matrimonio lib. 4 disp. 4 per totam et [illegible] resolvit Gregorius 15 de usu 326 n.º 21 Joannes Gutierrez proxime d. c. 77 n.º 19.

108 Decimo quarto [illegible] [illegible] contra aliquem [illegible] [illegible] [illegible] [illegible] [illegible] vel aliam personam habentem [illegible] metum posse [illegible] per [illegible] ad hoc usque [illegible] [illegible] [illegible] Mascardus [illegible] 77 n.º 24 [illegible] resolvit Augustinus Barbosa in [illegible] lib. 1.º [illegible] 1.º n.º 18 et n.º 135.

109 Decimo quinto etiam [illegible] metum et [illegible] [illegible] [illegible] [illegible] importare [illegible] [illegible] [illegible] [illegible] [illegible] metum posse [illegible] L. 1.ª in princ. et § [illegible] [illegible] de servo corrupto ubi persuadere [illegible] [illegible] plus quam compellere [illegible] [illegible] L. 1.ª ubi glossa 3.ª [illegible] [illegible] ubi glossa [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] L. cum qui [illegible] de apostatis ubi [illegible] [illegible] de [illegible] [illegible] sublatis [illegible]

verecundia petentium [illegible] [illegible] [illegible] non concedenda [illegible] [illegible] notat ibi glossa L. 3.ª § [illegible] volentem [illegible] debere [illegible] [illegible] ubi [illegible] quod [illegible] volentem [illegible] [illegible] et [illegible] [illegible] [illegible] vel [illegible] vel [illegible] ubi glossa verbo [illegible] [illegible] notat L. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] velle [illegible] [illegible] [illegible] [illegible] [illegible] 22 et [illegible] [illegible] de praebend. et dignit. in princ. ubi et in [illegible] [illegible] importuna petentium a nobis et praedecessoribus nostris [illegible] [illegible] non [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] L. 1.º ad finem C. 19 [illegible] 1.º ibi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Joannes [illegible] [illegible] [illegible] Mascardus de probationibus 1.º conclusione 193 per totam ubi n.º 8 [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] glos. 17 n.º 15 [illegible] [illegible] [illegible] resolvit [illegible] [illegible] [illegible] c. 19 n.º 60 et sequentibus [illegible] [illegible] consil. 461 n.º 11 vol. 3.º Don Joan del Castillo controvers. lib. 3.º c. 1.º n.º 105 latissime Pater Sanchez de matrimonio lib. 4.º disp. 7 per totam et n.º [illegible] [illegible] [illegible] de matrimonio lib. 4 c. 5 n.º 17 et [illegible] [illegible] [illegible] Joannes Gutierrez de matrimonio d. c. 77 n.º 17 [illegible] [illegible] [illegible] [illegible] per [illegible] importunitates [illegible] a persona cui debetur reverentia ut est pater [illegible] [illegible] [illegible] vel [illegible] [illegible] [illegible] resolvit in [illegible] Gregorius 15 de usu 326 n.º 18 [illegible] [illegible] [illegible] glos. 2.ª n.º 24 et resolvens Diana 3.ª p.e tract. [illegible] resolut. 20 [illegible] [illegible] 3.º de contractibus [illegible] 3.º § 3.º n.º 10 [illegible] [illegible] [illegible] [illegible] 5.º [illegible] 2.º n.º 197 ad finem quorum doctorum et aliorum verba eandem [illegible] [illegible] [illegible] Augustinus Barbosa in [illegible] lib. 1.º [illegible] 1.º n.º 30 cum sequentibus ubi n.º 79 [illegible] [illegible] ad probandum [illegible] [illegible] importunas [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] semper [illegible] clam et occulte et [illegible] impossibile esse [illegible] [illegible] [illegible] [illegible] [illegible] quodam n.º 11 [illegible] [illegible] in praxi criminali 2.ª p.e [illegible] n.º 1 [illegible] [illegible] idem Barbosa proxime n.º 33 —

Decimo sexto pro ta causa retentionis indignatio parentum vel eorum quibus debetur reverentia re ipsa [illegible] per retentionem suscepti [illegible] contra quem [illegible] gratia [illegible] et ideo advertendum [illegible] plurimum [illegible] indignationem resultare, [illegible] apud gregorium 15 de usu 3.2.6. n.º 14 et [illegible] indignatione ab [illegible] ulter [illegible] esse retentionem [illegible] contra [illegible] nullus —

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Mercano [illegible] sacerdum et demonstrata nullum [illegible] retentionem [illegible] et cadere in constantem virum et contrarie [illegible] retentionem [illegible] fortis [illegible] quod [illegible] actione quod retentionis causa [illegible] plures ad esse [illegible] et [illegible] sententiis [illegible] glossa [illegible] a Patre Sanchez de matrim. lib. 4.º disp. [illegible] per [illegible] Vernolla plures doctores referendo in l. 56 glos. 2. n.º 5 et sequentibus [illegible] apud quos [illegible] videas [illegible] memoriam [illegible] Primo [illegible] affirmat [illegible] reverentiale [illegible] persona cui reverentia debetur [illegible] et postea retentionem cadentem in virum constantem [illegible] vel [illegible] pro [illegible] filium vel subditum [illegible] velle contrahere [illegible] postea retentionem et non solum matrimonium [illegible] contra [illegible] nullum [illegible] actionem quod retentionis causa et [illegible] esse talem [illegible] primo [illegible] in l. velle 4.º [illegible] ubi velle non creditur qui obsequitur imperio patris vel domini [illegible] quae [illegible] versu in fine [illegible] cum tamen [illegible] cognita [illegible] quod [illegible] liber [illegible] solo vel [illegible] patrono reverentia [illegible] vel [illegible] quodam [illegible] retentionis reverentiali [illegible] in [illegible] de [illegible] ibi et hoc modo [illegible] quoque [illegible] et [illegible] in praesentia [illegible] Sancti [illegible] glos. verbo [illegible] in l. [illegible] quae [illegible] de [illegible] 2.º n.º [illegible] disp. [illegible] 3.ª

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versu [illegible] et [illegible] a [illegible] Pater Sanchez [illegible] disp. [illegible] n.º 4.º et hanc esse communem et probabilem [illegible] contrariam [illegible] probabilem [illegible] Barbosa d. voto 1. n.º 136 —

Secunda sententia [illegible] retentionem reverentialem [illegible] cadentem in constantem virum [illegible] quae [illegible] debetur [illegible] reverentia [illegible] in l. [illegible] de [illegible] d. l. 14 quae [illegible] liberti [illegible] obsequiis [illegible] patroni [illegible] Vernolla d. glos. 2. n.º 13 [illegible] de matrim. d. c. 77 n.º 15 [illegible] et [illegible] est [illegible] quae debetur [illegible] habere [illegible] sententiam plures [illegible] a Patre Sanchez d. disp. [illegible] n.º 5. Vernolla d. glos. 2. n.º [illegible] proxima.

Tertia est sententia retentionem reverentialem [illegible] contrahentem [illegible] retentionem [illegible] quando [illegible] qui [illegible] vel per causam [illegible] reverentia debetur [illegible] est [illegible] contra [illegible] nullus est in secundo vero casu cum contrahens [illegible] non [illegible] plures [illegible] Pater Sanchez d. disp. [illegible] Vernolla in d. l. 56 glos. 2. n.º 11. et [illegible] actione quod retentionis causa [illegible] a d. glos. 2. [illegible] —

Quarta et ultima sententia quae [illegible] habere quod regulariter [illegible] quando retentionis reverentialis [illegible] vel contrahit matrimonium vel [illegible] non est sufficiens ad [illegible] vel [illegible] reverentiale [illegible] sententiae confirmationem plura [illegible] quae [illegible] ubi [illegible] in [illegible] —

Secundo [illegible] sententia [illegible] 2. [illegible] in l. [illegible] mulieres 2. de [illegible] in l. [illegible] quibus [illegible] quod [illegible] celebrat [illegible] patris [illegible] hoc est ad [illegible] cui reverentia debetur [illegible] non [illegible] contrahens [illegible] reverentia vel retentionis

[illegible]

excludi [illegible] convenient consensus et non per solam reverentiam parentem vel maritorum = Tertio adverten... ut Zi. ubi fui querelam vel [illegible] ibi libere [illegible] in illam [illegible] et [illegible]. non tam metu [illegible] quam patientem [illegible] gloria verbo metu [illegible] sentire videtur metum parentem et [illegible] sine [illegible] non esse sufficientem = Quarto facit [illegible] [illegible] 8. 20 q. 1. ubi [illegible] que [illegible] a se patentum imperio sed spontaneo [illegible] [illegible] verba licet prima facie videantur de vitate patentium reverentiam tolerare [illegible] vel promitentis [illegible] liberatam [illegible] [illegible] probat hanc sententiam cum dicat: patentia imperio [illegible] quidem patentis debetur reverentiam at [illegible] verba cum imperio ultra reverentiam adest aliqua [illegible] et circumstantia quod cum imperio verba sint prolata que verba in [illegible] [illegible] cadentem in [illegible] [illegible] contra [illegible] [illegible] patentem [illegible] que causa [illegible] metum [illegible] [illegible] [illegible] capite [illegible] cum reverentia patris illa que ubi ... quod [illegible] fuerunt verba imperio prolata [illegible] [illegible] in ... 12 de regularibus. = Quinto facit [illegible] [illegible] [illegible] [illegible] [illegible] ibi [illegible] patre cogente [illegible] uxorem quam non [illegible] [illegible] [illegible] contrahere matrimonium quod [illegible] non contrahere [illegible] hoc videtur [illegible] ubi notat gloria ultra [illegible] non interveniens metum nec aliquam circumstantiam [illegible] metum sed solum reverentia patris que licet [illegible] voluntatem [illegible] hoc [illegible] et ita probat hanc sententiam = Sexto facit [illegible] [illegible] 17 de [illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible] ultra metum [illegible] reverentiam mariti [illegible] verbera [illegible] propter quae [illegible] asserit quod [illegible] non obstante quoque [illegible] [illegible] probat [illegible] causam matrimonii [illegible] et potestate [illegible] [illegible]. = Septimo facit [illegible] [illegible] [illegible] [illegible] que [illegible] [illegible] [illegible] ad

[illegible] [illegible] sola non est [illegible] ubi sola reverentia [illegible] non sufficit ad annullandum contractum et hoc [illegible] reverentia aliquem [illegible] [illegible] [illegible] [illegible] [illegible] quo mediante [illegible] nullus videtur facit [illegible] [illegible] = Et hec que [illegible] reverentia [illegible] vel maior [illegible] aliquo [illegible] [illegible] [illegible] metum quo [illegible] [illegible] metum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in [illegible] 63 disputat in [illegible] nov 23 q. 8 [illegible] [illegible] [illegible] et ibi [illegible] [illegible] = Octavo facit [illegible] ultra [illegible] aliquem testari [illegible] ultra [illegible] [illegible] blando sermones verbis precatibus potest mulierem [illegible] hoc ut revocet testamentum antea factum et [illegible] heredem et valeat hoc [illegible] [illegible] testamentum [illegible] [illegible] [illegible] resolutione quia reverentia mariti sola [illegible] non est sufficiens ad annullandum [illegible] = Nono facit [illegible] [illegible] quiet ad [illegible] ubi [illegible] contra [illegible] [illegible] et [illegible] propter reverentiam patribus debitam [illegible] filio [illegible] contra [illegible] nec dicere [illegible] [illegible] mediante reverentia [illegible] [illegible] interveniens [illegible] non [illegible] = Decimo probatur [illegible] [illegible] de filio familias [illegible] [illegible] [illegible] propatre [illegible] contrahens [illegible] potest non obstante reverentia [illegible] debita quia sola reverentia non [illegible] [illegible] [illegible] [illegible] [illegible] = Undecimo [illegible] facit [illegible] [illegible] 126 § pater [illegible] [illegible] ubi filius [illegible] patris [illegible] obligationem contra [illegible] voluntatem [illegible] [illegible] quod pater [illegible] [illegible] [illegible] contra [illegible] obligationem et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] solo quod mediante patre [illegible] [illegible] [illegible] instrumentum chirographi [illegible] ergo sola reverentia et [illegible] [illegible] non sufficit ad inducendum metum sufficientem = Duodecimo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 4 [illegible] [illegible] [illegible] por tal razon [illegible]

puede el apremiar que lo haga de todo [illegible] todo lo que quisiere que le puede decir palabras de cariño que lo obliguen [illegible] reverenciales non sufficit quoniam [illegible] tenet glosa verbo consentit per text. in cap. [illegible] per [illegible] in [illegible] glos. verbo [illegible] ad finem in [illegible] 4, 2091 3a [illegible] contrarii in 4 2 p. [illegible] et [illegible] sequentibus prae [illegible] 2a partes [illegible] communem de [illegible] [illegible] cap. [illegible] nº 15 et [illegible] [illegible] nº 94 [illegible] [illegible] et [illegible] lib. 1º c. 16. Antonius Gomez variarum 2º tom. c. 14 nº 17 per [illegible] [illegible] communem et veram sententiam Molina de primog. lib. 2 c. 3 nº 9 [illegible] de probat. 1º tom. conclus. 193 nº 7 et 2º tom. conclus. 1054 nº 22 [illegible] in dialogo relatorum 3 p. c. 20 nº 4 et in l. 11 glos. 3a nº 2º tit. 1 lib. 5 recopilat. [illegible] in l. 9 nº 28 tit. 1 lib. 5 recopilat. Joannes Garcia de nobilit. glos. 17 nº 15 et 19 et referendo doctores [illegible] et canonistas ad theologos [illegible] [illegible] per [illegible] resolvit [illegible] [illegible] lib. 4 [illegible] [illegible] [illegible] ad [illegible] [illegible] metus causa col. 2 [illegible] [illegible] lib. 2º c. 97 [illegible] [illegible] col. 154 et 1176 in [illegible] [illegible] verbo metus conclus. 219 nº 8 et 213 usque ad 225 [illegible] [illegible] 27 [illegible] [illegible] de [illegible] legali tom. 2º p. 4 [illegible] 6 nº 31 [illegible] [illegible] de [illegible] 239 nº 5 [illegible] conclus. 513 nº 10 et alios plures sequitur [illegible] in d. l. 56 glos. 2 nº 5 et 22 [illegible] apud Gregorium [illegible] 326 nº 11 et si [illegible] Barbosa in [illegible] lib. 1 [illegible] c. nº 39 et sequentibus —

Nec contra verissimam resolutionem [illegible] communem tenendo obstant [illegible] [illegible] opinione quae [illegible] contraria est. Non enim obstat [illegible] in d. l. velle 4 ff. de reg. juris ubi videtur probari imperium patris vel domini tollere consensum filii vel servi quemadmodum [illegible]

112 [illegible] ad [illegible] [illegible] in l. [illegible] libera [illegible] § [illegible] [illegible] ad [illegible] haered. ubi metu liberorum [illegible] aditio haereditatis est nulla [illegible] et [illegible] reverentiali metus interveniente nullus redditur contractus quod [illegible] probari contra [illegible] [illegible] [illegible] imperium patris vel domini [illegible] [illegible] contractum annullare contra [illegible] [illegible] secundum [illegible] [illegible] haereditatis [illegible] [illegible] contractum contra [illegible] [illegible] [illegible] [illegible] [illegible] 2 [illegible] de eo quod metus causa [illegible] [illegible] [illegible] ad [illegible] haered. [illegible] respondendum [illegible] in d. l. velle [illegible] [illegible] voluntate quod [illegible] [illegible] impe[rio] et reverentia patris vel [illegible] [illegible] [illegible] ad contractum annullandum [illegible] [illegible] [illegible] voluntas. Velle [illegible] quod velle [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] [illegible] quod metus causa [illegible] [illegible] [illegible] [illegible] lib. nº 16. —

Ad secundum [illegible] l. § celsus respondendum est quod ille [illegible] loquitur quando ultra

113 metum reverentialem [illegible] [illegible] [illegible] intervenerunt verba vel [illegible] [illegible] verbera et alia similia quae [illegible] [illegible] [illegible] voluntatem et [illegible] [illegible] ad adeundam haereditatem et quando tamen reverentia [illegible] [illegible] [illegible] [illegible] intervenerunt [illegible] [illegible] [illegible] respondendum [illegible] [illegible] secundum [illegible] quam defendimus sententiam. Secundo [illegible] respondendum [illegible] ad [illegible] d. § celsus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nullam quia [illegible] [illegible] et [illegible] de [illegible] [illegible] voluntate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dominum [illegible] [illegible] [illegible] [illegible] et [illegible] nullam [illegible] [illegible] non habet voluntatem adeundi nec liberam nec [illegible] [illegible] [illegible] glosa in d. § celsus verbo [illegible] et verbo non [illegible] in prima [illegible] et [illegible] reverentiam ad quod aliud requiritur [illegible] contrahere [illegible] [illegible] voluntatem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] modo [illegible] [illegible] —

Nec obstat [illegible] in d. l. 1ª § [illegible] de [illegible] [illegible] [illegible] non [illegible] in verbis

114 [illegible] [illegible] [illegible] loquitur quando cum reverentia [illegible] [illegible] requiritur [illegible] [illegible] [illegible] reverentia quae [illegible] [illegible] [illegible] [illegible] [illegible] metus [illegible] secundum [illegible] [illegible] [illegible] vel [illegible] [illegible] reverentia [illegible] [illegible] [illegible] aliud [illegible] secundum [illegible]

dicto

dicta quam interpretationem approbat Menochius de arbitrariis lib. 2 casu 133 n.° 6 Scotinus Senior cons. 47 n.° 33 lib. 3 dicatenus ad probandum eo quod metus causa col. 3 et in d. §. melius esse videtur Pater Sanchez d. disp. 6 n.° 16 vers. ad secundam dico

Nec etiam obstat d. l. in sponsalia ff. de ritu nuptiarum supra relata non obstante interpretatione de qua dixi; dicendum enim

115 est quod metus reverentialis cum promissione et terrore quando aliquis sit in potestate alterius [illegible] proposito validi non sunt ... Pater Sanchez d. disp. 6 n.° 25 cum sequentibus ... quod filius vel alius inferior ... praesens pater vel dominus vult ut aliquem actum faciat et ipse dicit non vult filius vel servus seu alius inferior ... et tacet ... filius ...

116 ... et damnum aliquod ... per filius vel inferior tacuerit ... obligatus ... reverentia patris ... ad ... in quam non fuerunt prolata verba sed pater loquutus fuit filio tacente in quem sensum intelligitur procedit de ... in d. l. penult. ff. de ... in qua agitur de actu praejudiciali semper de facto ... favorabilis qui tacet consentire videtur ... in c. qui tacet 43 de reg. jur. in 6 ... quando ... praejudicio ... qui reverentiam debet ... consensum ... non praecedat sed sola ad ... causa reverentiae ... n.° 5 ... sententiam Pater Sanchez d. disp. 6 n.° 37 ... lib. 6 glos. 2 n.° 25 et 26 ... Barbosa ... sed in hoc ... in contractu matrimonii ... nullum ... reverentialem ... de ... lib. c. 38 ... n.° 80 ... 2 Ego quidem ... quod ... in d. l. ... prima sententia et ad illam comprobandam inducatur ... quam ... sententiam ... quod ... non obstante praesentia et reverentia patris ...

contrahere qui ... quam ... reverentia ... ad impediendum quem ... pro suo ... quod ... Sanchez ... lib. 6 c. 9 ...

Ex quo ... ad ... procedit ... in foro ... in quo ... quod pater vel

117 per ... reverentia ... inferior hoc vult, non ... obligatum ... ad ... et in foro directo nullum contractum posse filium ... vel inferiorem ... at in foro interiori et conscientiae ... vel inferior in voluntatem ... nullo ... obligatur ... matrimonium ... alium contractum ... docet Pater Thomas Sanchez ... de ... lib. 4 disp. 6 n.° 37 ad finem =

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Notabis Primo circa hanc ... reverentiae

118 ... ab causa ... contractum ... quod metus causa, quae ... resolvere ... reverentiae ... vel ... patris ... metus ... reverentia ... in clerico respectu episcopi ... in ... respectu patris et in uxore respectu ... inferiores et subjecti ... quaedam reverentia ... quae debent ... et ... quae ... inferior ... contrahere ... hic ... respectu ... absoluto matrimonio ... glos. ... et ... pater ... debet ... reverentia debet ... patri ... reverentiam ... pater, ... debet ... reverentia debent et etiam ...

et persona superior cui subjecto de beret, Vt autem maxime attendi culias est in ratione quia femine sunt inspirientes et minus audaces et imbecilliores sunt, quoquoque ad filios adsunt cl. quos pro infirmitate sexus viris ausus ille conside nas pa, sed si mater esset Crudelis clausura filios, nec ad se qui posse rogat neuter vergia montem patet quam nostre est se benevolen dus se de praecepto igitur materno sat deberi recuram, causa et omnem humiliter debere violen in sorore vel fra tre minor frater maior patrem cla ut in omnibus casibus in quibus debe reverendi debent patribus charitate et fratribus maioribus quoque non merorum in alia ratione quandam debet reverentiam ac honorem habet respectu fratris maioris quod maxime procedit quando solus cum fratre habitat abeoque gubernatur ab eo vel orsentancia est nerdam in fratrem eam debet venerationem necesse est iam nostri nullus fere de cum hac de claratione et tenendum est in maturiis (?) parte pro iure absolute respectu maioris frater illum tanquam pater vene rari seu venerato debet et hoc sensus re spectu sub gubernatione patris dicet non alter de quibus omnibus latissime plures Doctores referendi in cia resolut Patri Sanchez d. lib. 4 dispe b. 1. Q. no 2 cum sequentibus de pluribus ex sub deten tradi Joannes guter. consil. lib. no 16. et sequentibus materias in dialogo relati 3 p. c. 20 no 6 Hermosilla ubi proxime d. l. 56 glos 2a no 2 gl. 5 partis 4 et resolutionis Jacobum Cancerium variarum 3o tom c. 15 no 243 Augustinus Barb. in votis lib. 1 d voto 1o no 44 inter quas etiam personas numerantur magistri sensedo goges (?) nomina gestis equales reverentia sicut pa rentibus debent esse per metum in subditos et discipulos sacrabilem castigationem l. et si quaerentur sed ad frequenter ad legem aquiliam et item quaestionem 3a. item Urbanus de locati ex conductis pluribus et contradata

magistrum patrem vocare ut scilicet usque ad Chasser Joab Rex israel dicebat Heliseo prophetae, ut plures referens tradit Augustinus Barbosa ubi proxime d. voto 1o no 41 cum sequentibus.

Secundo nota breviter dubitari non posse superius retulimus no 3 debitum ex praemissis (?) temperamentum perduendum esse secundum prudentis arbitrium in hoc specie pri ma habitis ad id perduendum an metus ex debet iniustis debeat continuationem causa circumstantiis aliis attendere dum esse etiam stato in sorori, qui aetatem metus intra tat an subditus sit adeo sui juris ut ex arbitrium nemini sit subjectus nec possit patentem frequentem superiorem in tali subditos non reperat ut haec natura, et alio quaestio debet se non se locum quod non est subo pro gubernatione nec in domo superioris habitat tunc timor vel re verentiali nec adest nec metu susta net nec revocat actum vel contractum ejus causa factum Ita haec omnia supe rius dicta intelligi et bene Pater Sanchez proxime d. disp. 6. no 24 in deg attendenda est persona sanctius metum an sit mulier et virgo fragilis timida et non audax etc. (?) Menochius de arbitrariis casu 135 no 4 resolut Prota gregorius 15 decis. 326 no 4 respectu quidem maio ris se geometrum proferenti dicitur atten dendum est an sit rigorosus et crudelis feri tudinis atrox rigidus et inductus adque rendis valde sagax potens vel adfluens tendum n. item quod mater vel sola les nec ad seguentes valeg materna vel bis ad fratres sunt audacia filios non ob ten patentibus fore 25 vel fil. de his quae vi metus causa fiunt sentencia Joa nes Garcia d. glos 17 no 17 et Joanes Gutierrez d. consil. lib. no 16 Antonius Gomez variarum 2 tom c. 14 no 7 vers. adde tamen fesco litera M. conclusio 217 no 3, 4, et 6 Mascardo d. conclusio 1054 no 18 et 19 Rodericus Suarez d. alegatione 24 ad finem ex alios plures tradit Hermosilla d. l. 56 glos 2a no 30 Gregorius 15 in sua decisione 326 no 12.

Tercio notabis quod si cum reverentia adest casto errorem vel errorem contra hec eo modo sortes sive metus vel alias circumstancias propter eas tenorem restitui regardimus et annullatur actione quod metus causa violare solebat del sponsalibus 2a pe c. 3 § 6 no 4 materi in dialogo

eo in dialogo relatoris 3a p. c. 20 nº 3.
mascardus de [illegible] 1054 nº 20 Joannes
garcia de nobilitate glos. 17 nº 34 sede
nunc [illegible]. Joan. lib. 2 c. 9 in prin.
molina de primog. lib. 2 c. 3 nº 11. vnde
[illegible] regulariter [illegible] et sola
plures [illegible] proxime d.
glos. 20 nº 15 [illegible] lib. 4 [illegible]
[illegible] nº 15 vbi ad finem dicit quod licet hoc
procedat generaliter in omnibus contracti
bus [illegible] nisi [illegible]
interveniat, non anullari nec [illegible]
debet. —

Quarto notabis quod minas vel alium
inducens metum in eo ad religionem metus
reverentialis vel quoties fuit princi
paliter ad hoc ut aliquis statum elegerit
ante aliqua voluntate propria metum
possunt facere nihil interest an
fiat in ipso actu semper celebrationis
siue ante prope vel [illegible] interva
lo quocunque enim modo constet precessisse
metum vel alium inducentem [illegible]
liberae voluntatis [illegible] ad eum
anullandum [illegible] vel ratio
[illegible] sibi aliquis superior cui debe
[illegible] de bene metus [illegible]
et verbera praecedant interim dum ra
tionem [illegible] gubernationis vel
patria potestas seu subiectio [illegible]
[illegible] vel con
[illegible] praesumitur et ita nihil interest
an [illegible] prope vel a longe [illegible]
[illegible] referens tradit
antonius gomez variarum 2º tom. c. 14 nº
17 ad finem versu item adde quod [illegible]
[illegible] in dialogo relatoris 3a p.
c. 20 nº 3. [illegible]
nam quamquam [illegible] minas [illegible]
ad illud quod [illegible]
[illegible] praesumi
tur quod [illegible] subditum cum
[illegible] ad
praesens c. [illegible] voluntate glosa
de [illegible] per quem [illegible]
[illegible] d. voto 1º nº 46. —

Quinto notabis quod minae [illegible]
ba aspera ad terrendum non est [illegible]
sum sequi [illegible] quod fiant in praesentia
metum [illegible] superi
or cui reverentia debetur minas [illegible]
dum modo ad [illegible] superbe

[illegible] delegauimus [illegible]
[illegible] quod aliquis [illegible]
[illegible] quod [illegible] contra
[illegible] non [illegible] vel [illegible] celebrationem
[illegible] quicquam sequi [illegible] in alijs
relatis tradit [illegible] et in glosa apud
gregor. 15 [illegible] 3 v. 6. nº 2 ad finem

Sexto notabis hanc [illegible] me
tus [illegible] verberibus [illegible]
[illegible] in omnibus [illegible] que
[illegible] possunt et solent [illegible] non
[illegible] locum [illegible] ratione
[illegible] religione in
et in ea professus [illegible] quod [illegible] cum
minus [illegible] quod filius [illegible] heredi
tatem [illegible] vel omnem hereditatem
ad eum [illegible] reclama
tione ingressus est et professus in reli
gione [illegible] monasterium [illegible]
[illegible] persona professa [illegible]
agere ad revocationem renunciatio
nis illius [illegible] intentando actionem
de eo quod metus causa cum [illegible] vel
minis [illegible] vel [illegible]
[illegible] ingredien
tes religionem [illegible] in [illegible]
[illegible] renunciare et disponere de
bonis suis et de hereditate praesente
et futura et de dicta renunciatione [illegible]
[illegible] voluntatem praesumitur prop
ter religionis ingressum authe. [illegible]
[illegible] quoque decernimus [illegible]
[illegible] cum
praesumatur principaliter renuncia
tionem fuisse factam propter ingressum
et professionem in religione [illegible]
[illegible] revocationem monasterio [illegible]
monachis. plus [illegible] ratione [illegible]
probat [illegible] referens [illegible]
[illegible] 3a p. [illegible] de
[illegible] quem [illegible]
[illegible] sequitur Joannes garcia
de nobilitate glos. 17 nº 10. —

Septimo notabis an metus [illegible]
vel reverentialis [illegible] professio [illegible]
guineorum vel amicorum [illegible]
[illegible] valeat [illegible]
cedente metu [illegible] quod [illegible]
[illegible] consanguinei
vel amici [illegible] liberum
[illegible] vel metum [illegible] qua
in specie [illegible] varias esse doctorum
[illegible] opiniones, sit enim

Prima praesentiam amicorum siue consanguineorum debere metum reuerentialem incutere, at autem in praesentia amicorum dicere potest illum fuisse per metum et ei competit remedium de eo quod metus causa et idem dicendum esse si adsit principis praesentia et denique ratio ubi quod praesentia consanguineorum et amicorum facit pro ea sententia tex. in l. non solum 35 C. de transactionibus quo communiter omnes ordinarie dicunt praesentiam amicorum debere metum et inducit improbitatem quod satis metum passus fuit pro ea sententia tex. in l. fin. C. de reuocatione donationibus ad quam remittunt doctores qui sibi per illos compellere [illegible] debeat. et quibusdam praesentia consanguineorum vel amicorum debet metum sufficere et recte contra debitorem obstetem procedi potest. quam sententiam Bartolus et alii in d. l. non solum dicendo esse communem in dicta l. tenet Tiraquellus de poenis temperandis causa 22 n. 50 Mascardus de probat. 2 tom conclusio 1054 n. 23; et dicens hanc esse rationem quod contrahens dabit pabulum satis quando fit in praesentia consanguineorum et amicorum tradit alios referens Joannes Garcia de nobilitate glos. 17 n. 7 Mascardus vero proxime n. 24 Jason in d. l. non solum Boerius decis. 100 n. 8 et alios. affirmat hanc sententiam subtrahere se ab rationem singularem videlicet quando amici vel consanguinei sint personae in quibus esse praestat eadem causa metus quae in metum passo cauetur in vero ratione [illegible] et ab his [illegible] fit verisimile esse eorum praesentiam metum non solere reuerentiam et idem resoluit Joannes Garcia proxime d. glos. 17 n. 8.—

Secunda est sententia videlicet quod si fuerit metus illatus a patre vel reuerentia debita omne tempore siue fuerint praesentes consanguinei vel amici siue absentia coniunctio contrahat semper adest. Porque est metus illatus a patre et maior siue a [illegible] quod in locum patris habitus ut praesentia judicis amicorum vel consanguineorum si metus fecit et non tollat metum, secus vero quando metus est illatus a bello siue potestate [illegible] siue sedet vel ante coniuncta patris ceteris omnibus praefertur l. velut n. 2 ff. de testa et pup. Ita opinatur Salicetus in d. l. non solum et alii relati tradit Tiraquellus de legibus connubialibus glos. 5 n. 37 Calderinus Cola in memorabilibus verbo contractus metu non in primo quod videlicet et sequitur Mascardus in [illegible] Cabalis 3 a p. c. 20 n. 7.—

Tertia est sententia quod si fuit aliter praecedente metu absoluto vel reuerentiali in praesentia amicorum vel consanguineorum aduenerat metus suspicio et non in totum cessat sed dum fuit metum passum a patre et magis ex ea probatur metus fit [illegible] ad id [illegible] ut tum metum passus quam sententiam sentire videtur Mascardus ubi proxime Antonius Gomez Variarum 2 tom c. 14 n. 27 ad finem vers. praedicta tamen limita, Gaspar Sarches de matrim. l. lib. 4 disp. 12 n. 21 ad finem Joannes Gutierrez cons. 16 n. 24 Barbosa vota decisiua lib. 1 voto 1 n. 57.

Quarta et ultima sententia fit quae mihi multo verior videtur est quod praesentia judicis consanguineorum vel amicorum per se [illegible] nullo modo facit cessare metum, quod metus vel reuerentia illatam nec ideo requirit nec necessariam esse diuersam et [illegible] metus probationem nec ad id probat, cum qui metum passus est non ex praesentia plurimorum eadem quoniam si pater maior vel dominus seu superior habens superioritatem in metum passo videat consanguineos sobrinos in seruitutem magis efficiet ita hanc sententiam veriorem dicit addit Antonius Gomez ubi proxime d. c. 14 n. 27 ad finem Licet et Sebastianus [illegible] l. 9 n. 9 et 1. lib. 5 [illegible] Menochius de praesumptionibus lib. 3 praesumpt. 126 n. 17 et praesumpt. 127 n. 14 et lib. 4 praesumpt. 328 n. 9 et 10 Ceballos communes contra communes q. 727 n. 21 et 25 plures quos late [illegible] tradit et [illegible] Jason in l. 56 glos. 2 n. 16 et 5 [illegible] probant qui in matrim. [illegible] supra proxime c. n. 30.—

Nec eam sententiam tenendo obstat tex. in d. l. non solum 35 C. de transactionibus

[illegible] communiter [illegible] pro contraria sententia et [illegible] de [illegible] doctorum [illegible] ut non obstante [illegible] quod [illegible] [illegible] praesentia amicorum [illegible] gaudere [illegible] vel metum et non [illegible] quem contrahendam [illegible] veritate [illegible] probabilem [illegible] tam [illegible] probabilitatem non [illegible] partem praecedentem [illegible] [illegible] et [illegible] arbitratoris [illegible] quod [illegible] contrahendum [illegible] contrahendam [illegible] probabilem et [illegible] modo attendit ad [illegible] vel damnum [illegible] ad [illegible] alegat [illegible] 22 nº 50 [illegible] sententiae [illegible] doctrina [illegible] de probationibus 2º tom conclus. 1054 nº 2º [illegible] doctorum [illegible] cessare metus praesumptio [illegible] quem [illegible] aliud [illegible] metu [illegible] praesentia consanguineorum et amicorum —

126 Sequitur [illegible] non [illegible] admittendam esse [illegible] quam [illegible] Pater Sanchez de matrim. lib. 4 d[isp.] 12 nº 21 [illegible] in proposito [illegible] at quod [illegible] quod consanguineorum [illegible] cessare metum et [illegible] contrahendo eorum praesentia [illegible] metum [illegible] matrimonium in foro [illegible] interiori vero [illegible] metus [illegible] et contrahens propter metum non habeat conscientiam in eo foro [illegible] matrimonium nullum [illegible] et non valere [illegible] sed [illegible] sententia [illegible] praesentiam consanguineorum et amicorum non [illegible] metum [illegible]

[illegible] quod metus [illegible] resolutum [illegible] contrahentem non solum [illegible] esse in foro [illegible] quamvis praesentia consanguineorum et amicorum [illegible] probaretur [illegible] in eo [illegible] foro [illegible] amicorum vel consanguineorum praesentia —

127 Octavo [illegible] non [illegible] metus [illegible] [illegible] consanguineorum [illegible] proposito [illegible] ad quem [illegible] vel [illegible] metus [illegible] voluntate [illegible] aliquod [illegible] causa [illegible] quod [illegible] causa quam [illegible] libere et de libertate voluntatis et in hoc [illegible] potuit induci [illegible] libere voluntatem ad [illegible] metu [illegible] probatio metus [illegible] voluntate [illegible] potuit [illegible] adesse [illegible] [illegible] contrariam voluntatem [illegible] nihil consensu 16 [illegible] solo [illegible] contrarium et de libertate voluntatis non praesumitur [illegible] esse voluntatem et semper [illegible] vel metum [illegible] nihil consensu [illegible] 32 8 [illegible] lib. [illegible] 14 [illegible] probationibus per quam rationem [illegible] alegando [illegible] doctores [illegible] resolvit Joannes Garcia [illegible] d. glos. 17 nº 43 [illegible]

128 Nono [illegible] non [illegible] metum [illegible] praecedat [illegible] interior [illegible] voluntatem et de non [illegible] adesse liberum consensum et [illegible] interior de [illegible] quae [illegible] induxit metus [illegible] debet [illegible] libertatem voluntatem quam [illegible] non quam induxit metus [illegible] libere [illegible] causa [illegible] contractus [illegible] praesumitur approbatio [illegible] metu [illegible] 4 in prin. [illegible] Joannes Garcia [illegible] d. glos.

17 nº 46. ubi late doctrina exemplis
cor[um] aliquibus pretendum pro ipsius p.

129 Debes quarti pone quod si creditor
a debitore debitum offeret et comedi certe obli
gaverit, quas ad solvendum quandam
summam quam tradet et solvere, sed
debitor si possit solvere quamvis solu
tio regularis et per se ter esse ... per
per... datam ... d. l. 2ª ... super
... de ... habere ...

Denique notabis nullo modo per
gationem metus adesse nec voluntas
agentis presumitur si durat causa
metus ...

130 ... presumitur non solum
ad alteram factam causa metus sed
etiam ad omnes sequentes ...

Gernacione quod quod factum fuerit superve
niente metu ... super praedictum vel
... metus fuerit ... durat ... causam
metus durare ... probabilitur ...

... Gomes ... Covarr. 2º var. c. 14 nº 27 ...
... Roderici Suarez allegat. ... Velt ...
... Joannes Gutierrez consil. ... 15 ...
... de probationibus ... 1054 nº 34, 36 et 40 ...

131 impedimento ... causa ...
... Covarr. ... Pater Sanchez d. lib. 4 disp. 18 nº 3 ...

Videmus notabis non purgari metum
precedentem etiam per ipsum contractum quis
habeat ...

132 ... contractus ...
... et etiam ... generale ...

[illegible] ... matrimonium ... [illegible] ... causa metus ... [illegible] ... Barbosa ... [illegible]

Hec supposita sententia contra [illegible] ... Petrus Sanches de matrimonio ... [illegible] ... quod ... [illegible]

Sed ... metum ... matrimonium ... [illegible]

133 [illegible]

DIF 299 [illegible]

... [illegible] ... metus ... [illegible]

Hec quidem ... [illegible] ... quod metus causa ... [illegible]

134 probare metum ... [illegible]

... [illegible] ... glossa ... [illegible] ... Covarruvias ... [illegible]

Verum cum metus ... [illegible]

135 [illegible]

136 [illegible] ... presumptiones et indicia sufficere

ad mulierem quasi interesset plus quam
in parentes ... ib. nº 4 et
... ut plenius ... proxime ...
quoque quando aliquid est difficilis proba-
tionis ... testes non ...
probatur semper coniecturis et pre-
sumptionibus ad mitiorem ... inquiren-
do ... probari ...
... videl...
dicitur doctor ... difficilis
probatur ... tit. 2º infra
... que ... coniecturis ... quod
... oportet ... in ...
... l. non omnes ...
... l. ...
... omnes su-
pra proxime relati ... pre...
nes ... d. glos. 17. nº 33 Barbo-
sa d. voto 1º nº 54 ...
... Hermos. d. glos. 1ª nº 64
... ubi nº 68 resolvit
quod licet in probatione requiratur per

137 testes ad minus duo requirantur
... dictis plena probatione ve-
... ut ... presumptionibus habe-
ri ... coniecturalis probatione quia
... coniecturas requirit duos simul
coniecturas ad ... probandi ...
... quod quilibet debet probari
per duos testes contestes ad idem
ambos ... resolvit ...
... Barbos. in
l. 1ª in prin. ... nº 84 ... solutio ma-
trimonio —

Nec ad ... hanc resolutio-
nem obstat ... c. 1º de ...

138 ... legitime probatum
... verba de ... metum
... probari per legitimas proba-
tiones ... non ... probatum
... coniecturas et presumptiones
... relatis ... concludit
. 1054 nº 14. contra proxime resoluta,
... debent ...
ad probationem metus que presum-
... probari. ... pro-
batione voluntatis metum ...
... metum per con-
... voluntatem ... voluntas
est legitime probanda quia ...
metus probatus semper perseve-
rare presumitur ...
et non obstat de voluntate meta

... ut ... sit ... nº 131
... non obstat ... presumptio ...
... probanda ...
ut pluribus relatis resolvit Hermos.
... d. l. 56 glos. 1ª nº 70 quod qui-
dem ...
... ...
... probatum ...
... mulierem ...
... quod plene probandum est ad
excludendum metum presumptum ...
... probatum et ...
... voluntatis ... Hermosilla proxime d. glos.
1ª nº 69, ... resolutione ...
... quia probato metu quasi ...

139 ... probare contrarium et ...
... voluntatem ... proba-
... probatur ... spontanea de-
... voluntate ...
... deponentes ... deponentes
... testibus ...
... qui deponent ...
qui deponent de spontanea voluntate
... occultis
... ...
... in pr. nº 29
... Barbos.
d. voto 1º nº 85 et 86 et 112. Hermosilla
d. l. 56 glos. 1ª nº 80 et 5 ... 5ª —

Plures sunt coniecture ... presump-
tiones quibus ... metus ...

140 probationem ... possunt ...
... Prima ... quo
... contrahens ... ut ...
... resolutus supra nº 18 et 82 —
Secunda ... presumptio ... quando
fit contra filium ut ... contrahatur
diximus nº 81 ... nº 85
et in ascendentibus et descendentibus ut
nº 86 Uxorem et famulum ut nº 87 et 88
Tertia ... presumptio ... vel ...
... ut diximus nº 97
Quarta presumptio metus ...
... ut nº 99
Quinta ... condemnetur ...
ad ... ut diximus nº 100
Sexta ... dignitatis ...
... ut nº 102 et 103
Septima ...
... ut nº 104 diximus
Octavo metus ...
metus ut nº 105
Nono ... metum ... communicatio

cletus

[illegible] ut nº 106 —

Decimo [illegible] nº 107 —

[illegible] nº 109

Decimo [illegible] ut diximus nº 110

Decima tertia praesumptio [illegible] ut nº 111.

Decima quarta [illegible] praesumptio [illegible] ut nº 121.

Decima quinta praesumptio est [illegible] ut diximus nº 122

141 Decima sexta praesumptio metus est quando actus qui dicitur metu [illegible] veros [illegible] quod non [illegible] voluntatis [illegible] praesumptio metus [illegible] Bald. in d. l. interpositas C. de transactionibus [illegible] Mascardus de probationibus d. conclus. 1054 nº 41 et nº 42 [illegible] quando [illegible] causa [illegible] in d. l. 56 glos. 1ª nº 96 [illegible] Gregorius 15 [illegible] 26 nº 6 —

Decimo septimo praesumitur [illegible]

142 [illegible] praesumptio metus propter [illegible] causa metus [illegible] Bald. in consil. 117 [illegible] Crabeta consil. 49 nº 6 [illegible] Mascardus [illegible] d. conclus. 1054 nº 43 —

143 Decimo octavo [illegible] praesumptio est [illegible]

[illegible] d. conclus. 1054 nº 44 [illegible] 4 nº 6 [illegible] glos. 1ª nº 95 [illegible] —

144 Decima nona [illegible] contractus vel obligationis [illegible] Mascardus d. conclus. 1054 nº 45 et [illegible] 126 nº 26. Gregorius 15 [illegible] 26 [illegible] Barbosa d. [illegible] 1 nº 58 [illegible] nº 59 [illegible] —

145 Vigesima praesumptio [illegible] quando [illegible] contra voluntatem [illegible] per annum [illegible] Mascardus [illegible] d. conclus. 1054 nº 46 [illegible] Barbosa d. [illegible] 1 nº 66 et sequentibus —

146 Vigesima prima praesumptio [illegible] metum [illegible] l. de minore 10 § tormenta ff. de quaestionibus [illegible] Mascardus d. conclus. 1054 nº 47 [illegible] Gregorius 15 [illegible] 26 nº 42

147 Vigesima secunda metus praesumptio est quando [illegible] in domo vel [illegible] matrimonium contrahat vel quod promittat [illegible] matrimonium [illegible] contractum [illegible]

[illegible] a [illegible] referens [illegible] 1054 nº 48 —

148 Vigesima [illegible] praesumptio [illegible] per [illegible] ad [illegible] nº 11 [illegible] 1054 nº 55 —

149 Vigesima [illegible] persona ad locum [illegible] ad [illegible] quod [illegible] apud Gregor. 15 in Glosa [illegible] 326 nº 31 cum duobus sequentibus —

150 Vigesima quinta praesumptio est [illegible] ad [illegible] et [illegible] agentem non habere liberam voluntatem [illegible] apud Gregor. 15 [illegible] 326 nº 36 et [illegible] Barboss [illegible] 64 —

151 Vigesima sexta praesumptio [illegible] ante vel [illegible] post [illegible] lamentationes et gemitus [illegible] propriam voluntatem [illegible] matrimonium [illegible] celebrandum [illegible] 3º praesumpt. 4 nº 11 et alios [illegible] apud Gregor. 15 [illegible] 326 nº 40 et 41.

152 Ultimo [illegible] probent metum [illegible] praesumptiones metus [illegible] non probare metum nec per metum [illegible] contractum vel matrimonium [illegible] metum [illegible] in contrarium [illegible] metu [illegible] monasterium intrasse et ita

[illegible] sententiam [illegible] quod licet [illegible] probet metum nec [illegible] ad metus [illegible] non obstat [illegible] sententia [illegible] 148 [illegible] hereditatem [illegible] 1054 nº 9, 10 et 11. Gregorius 15 in Glosa [illegible] 326 [illegible] 30 et [illegible] quod licet [illegible] non tamen est necessaria [illegible] de [illegible] 2 [illegible] 12 et 13 Barboss [illegible] sententia [illegible] in d. [illegible] 56 glos. 1ª nº 86 usque ad 89 —

Ex his [illegible] praesumptionibus [illegible]

153 [illegible] plene probatur metus [illegible] supra nº 137. nec [illegible] est quomodo metus [illegible] praesumptione metus probetur et [illegible] est quod licet quaelibet probatio [illegible] plena [illegible] testes [illegible] contestes et conformes [illegible] duo testes [illegible] c. 5 nº 151 cum sequentibus [illegible] plene probandum [illegible] duo testes deponentes de metu [illegible] adeo quod licet non concordent in loco et tempore plena probatio [illegible] concordes [illegible] quolibet loco et tempore [illegible] plena probatio [illegible] ad probandum metum

dum petitum probetur quem immeter sta
[illegible] petitum [illegible]
[illegible] generaliter [illegible]
[illegible]
[illegible]
[illegible] 17 n° 36 [illegible]
15 [illegible] 26 n° 47 [illegible] (quod
[illegible]) in a causa matrimonii
[illegible] agatur de [illegible] vel [illegible]
[illegible] matrimonii propter [illegible]
in aliis [illegible] Barbosa [illegible] 1 n° 80
[illegible] n° 81 [illegible]
[illegible] si simul
probetur [illegible] publica [illegible] admi
[illegible] proxime [illegible] vel in corporis
[illegible] et idem [illegible]
aliis deponunt de auditu [illegible]
ad quem audiverunt nec contra testes de
metu deponentes repelli debent admitti
cum [illegible] quod fit
omni [illegible] agatur de
defectu consensus probando [illegible] Barbosa
de voto 1 n° 92 [illegible] domestici in hoc
[illegible] praestandi [illegible]
[illegible] quod quod [illegible]
non possit probari per testes [illegible]
per domesticos qui [illegible]
[illegible] 3ª [illegible]
[illegible] 33 [illegible]
[illegible] prudentia 1° 149 n°
[illegible] d[illegible] 17 n°
33 [illegible] 154 [illegible]
112 n° 13 [illegible]
[illegible] 158 glos 1ª n° 74 cum sequentibus
[illegible]
[illegible] ponen
[illegible] voluntate
[illegible] probato metu [illegible]
[illegible] et probare contrariam [illegible]
[illegible] voluntatem [illegible]
[illegible], quod [illegible]
[illegible]
[illegible] voluntate deponentes deponunt
[illegible]
[illegible] vel [illegible] quibus [illegible]
[illegible], [illegible]
testes deponunt de metu [illegible]
[illegible] ad cum probandum [illegible]
[illegible] deponunt de [illegible]
[illegible] voluntatem
[illegible] qui [illegible]
[illegible] arbitrio [illegible]
[illegible] et semper [illegible] non
esse attendendum ad numerum [illegible]
[illegible] deponentia plura [illegible]
[illegible] qui semper debet [illegible]
[illegible]
probata voluntate [illegible] pars

[illegible] 1053
[illegible] glos 1ª n° 76 [illegible] sequentibus

193 Videntur [illegible]
[illegible]
[illegible]
[illegible] 1049
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] causa non [illegible]
contra eum qui [illegible]

195 [illegible]
contra [illegible]
[illegible]
[illegible]
[illegible] 148 [illegible]
[illegible] causa [illegible]
[illegible]
[illegible] glos 1ª n° 34 et sequentibus
[illegible] n° 89 [illegible]
[illegible] damnum [illegible] plura
[illegible] doctores ad id referendo

196 Unde in praxi [illegible]
[illegible] in libello [illegible] quod
metus causa [illegible]
metum [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] quod [illegible]
[illegible] quod etiam
non [illegible]
[illegible] propter
[illegible]
[illegible]
[illegible]
[illegible] 1054
n° 7

197 Unde [illegible] quod [illegible]
[illegible] metus probetur non tamen [illegible]
[illegible] probaretur quia testes deponunt de
metu [illegible] per metum [illegible]
[illegible]
metum [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] 9 [illegible]
[illegible] doctores [illegible]
[illegible] verbo metus n° 14 [illegible]
[illegible] 4 p. decada 76 [illegible]

[illegible] valeat [illegible] nostra [illegible] supra

Ex praedictis satis probatum est quod

198 data per metum [illegible]

[illegible] metus causa [illegible]

[illegible] illud [illegible] metum adesse [illegible] et vim [illegible] omnem voluntatem [illegible] per vim [illegible] peccat mortaliter nec veniale [illegible] data per metum [illegible] quod metus causa [illegible] revocandum et si fuerit materia peccati peccabit actor per metum [illegible] in specie [illegible] debis [illegible]

[illegible] foro exteriori data per metum [illegible] rescindantur et annullantur et si [illegible] quod metus causa [illegible] in foro interiori [illegible] metum [illegible] materia [illegible] non [illegible] a culpa [illegible] metu materia fuerit in [illegible] peccatum veniale peccabit actor venialiter si vero fuerit peccatum mortale illud facere peccabit [illegible] metum [illegible] per metum [illegible] simpliciter voluntaria [illegible] mortem [illegible] quam in peccato consentire [illegible] non solum mortale sed etiam veniale ut resolvit [illegible] Sanchez de matrim. lib. 4 disp. [illegible] n. 6 [illegible]

Dis. 300

[illegible] satis haec [illegible] et [illegible]

II [illegible]

199 [illegible] cognitionem et comprobationem [illegible] metus [illegible] nullum [illegible] quod metus causa [illegible] metus est [illegible] nec [illegible] metus causa [illegible] dixi n. 64 [illegible] valere contractum [illegible] dubitandum an adqui[illegible] per [illegible] metum [illegible] voluntatem [illegible] respondendum est [illegible] quod [illegible] contractus [illegible] in eo foro exteriori [illegible] metum [illegible] respublica [illegible] foro interiori [illegible] voluntas et obliga[illegible] rem non [illegible] valorem [illegible] voluntas [illegible] non [illegible] in eo foro [illegible] proximi [illegible] verba metus [illegible] Andrea [illegible] c. 12 [illegible]

Dis. 301

67 & addo

o [illegible] ad de [illegible] non verum esse dixi
[illegible] habere [illegible] de [illegible]
[illegible] lib 1 [illegible] col 2 vers [illegible]
vero in voluntatis et [illegible]
[illegible] dist 3 [illegible]
[illegible] Joannes Gutier [illegible]
c 16 n° 1 [illegible] praeterea [illegible]
vero [illegible] proxime [illegible]
[illegible] uno [illegible] constat
tamen differentiam [illegible]
quod de [illegible] vel [illegible]
quae promisit vel contraxit contractum
[illegible] implebit sine [illegible]
[illegible] de [illegible] et [illegible]
[illegible] contractum adim-
plere [illegible] utroque foro [illegible]
[illegible] quo [illegible] cedit et [illegible]
[illegible] —

Verum ob [illegible] differentiam [illegible] interpre-

160 tationum lib 2 c 11 n° [illegible]
mittendo circa interpretationem ali-
quorum [illegible] cum dicta
[illegible] et consultationi [illegible]
[illegible] sed licet [illegible] doctor
non [illegible] authoritati [illegible] hoc
parte non esse sequendum [illegible]
[illegible] magis verum esse [illegible]
differentiam a doctoribus approbatam
et [illegible] corroboratam et [illegible]
rebus traditis confirmari

Ex quibus illud infertur [illegible]

161 pote quod ad [illegible] aliquem [illegible]
contra [illegible] matrimonium [illegible]
materia [illegible] valorem [illegible] vel
non cadere in constantem virum quovis

DIF 302 [illegible] obligatio [illegible] contra
[illegible] et celebratus non tamen [illegible]
[illegible] secundum [illegible] resolutam [illegible]
in foro exteriori ad observantiam [illegible]
[illegible] compellendus [illegible]
[illegible] voluntatem [illegible] contra-
ctum [illegible] obligationem non [illegible]
[illegible] nec in eum consensisse [illegible]
per [illegible] in conscientiae foro [illegible]
ad Deum non teneri obligatus [illegible]
[illegible] contractum sine scandalo [illegible]
[illegible] adesse inter utrumque [illegible]
[illegible] differentiam [illegible]
tradit Sanchez de matrimonio
lib 4° disp [illegible] n° 11 —

Hinc inde ab [illegible] dif-
ferentia diximus supra lib 4 c [illegible]

162 [illegible] mulierem non posse se obli-
gare nisi cum renunciatione velle-
iani et interveniente solemnita-

tibus de quibus [illegible] alias obligatio
nulla est contractus

Sequitur inde quod [illegible] heredes [illegible]
filius [illegible] bonorum [illegible]

162 [illegible] in alienatione [illegible]
[illegible] alias [illegible]
metum [illegible] vel minus [illegible]
[illegible] virum [illegible]
[illegible] contractus non [illegible]
valere [illegible] renunciationis in foro
[illegible] in foro interiori [illegible]
renunciationis [illegible] voluntatis [illegible]
[illegible] bona [illegible]
[illegible] hereditatem [illegible]

DIF 303 [illegible] tenetur [illegible]
[illegible] hereditatem et [illegible]
[illegible] filius vel [illegible]
[illegible] conserva [illegible]
[illegible] iuramenti [illegible]
[illegible] vel renunciationem [illegible]
[illegible] iuramento [illegible]
[illegible] Sanchez [illegible]
9 n° 13 —

Hinc inde ab [illegible] dif-
ferentia diximus supra lib 4° c [illegible]

163 [illegible] mulierem non posse se obligare nisi
cum renunciatione velleiani et interveniente
solemnitatibus de quibus [illegible]
[illegible] obligatio nulla est contractus [illegible]
[illegible] supra per totum hunc capi-
tulum obligatio per metum levem
non cadentem in virum constantem vel
[illegible] adimplere [illegible]
[illegible] contractum observare [illegible]
[illegible] quod mulier [illegible] alias [illegible]
obligat cum omnibus solemnitatibus [illegible]

DIF 304 [illegible] et mulier renunciat velleiano
[illegible] compulsa [illegible]
metum [illegible]
[illegible] consultationis minime [illegible]
obligasset nec [illegible] nec [illegible]
contractu consensisse [illegible]
differentia inter utrumque forum [illegible] quod
in foro exteriori [illegible] mulier [illegible] obliga-
ta [illegible] et ad [illegible]
compellenda [illegible] foro [illegible]
[illegible] at in foro interiori [illegible]
[illegible] non [illegible] obligata [illegible]
[illegible] consensus [illegible] potuit [illegible]
[illegible] sine scandalo [illegible]
[illegible] iuramenti relaxatione [illegible]
[illegible] facta et [illegible] non
[illegible] contra [illegible]
[illegible] sed velle differre solutionem
[illegible] quod [illegible] de
[illegible] celebrari inter

[illegible] 4o [illegible] n.o 14 —

164 [illegible]

DIFa 305 [illegible]

165 [illegible]

DIFa 306 [illegible]

[illegible] Nec [illegible]

CAP. 16.

1 Census est perpetuus [illegible]
2 Census redimibilis [illegible]
3 Redimere [illegible] in solidum emptoris [illegible]
4 Census ubi sit necessario implere [illegible]
5 Census super bonis immobilibus debet imponi [illegible] nullus est
6 Census imponi debet super domos, agros et similes
7 Census an super censum imponi possit
8 Personalis census constitui non potest nec valere
9 Hypotheca [illegible] extinguitur census et n.o 26
10 Pignus [illegible] pignoratur persona non liberatur [illegible] —
11 Obligatio [illegible] pignoris non obligat personam —
12 Obligatio census in conscientia obligat personam
13 Obligatio generalis bonorum non [illegible] census voluntatem —
14 Hypotheca [illegible] subjecta solutioni
15 Pactum de separando hypothecam [illegible] hypotheca —
16 Hypotheca reaedificata [illegible]
17 Census [illegible] alieno qui non potest obligari nullus est —
18 Emptor [illegible]
19 Census super [illegible] non potest
20 Res hypothecata in censu consignativo [illegible]
21 Intellectus ad [illegible]
22 Census consignativus debet imponi [illegible]
23 Fructus [illegible] census [illegible] pro solutione personalis [illegible] —
24 Carcerato pro solutione personalis census an debeant dari alimenta —
25 Alimenta [illegible] quam [illegible] personis fiat —
26 Census an [illegible] vendi possit minori pretio quo creatus fuit —

27 Census

76 Commiss. clausula in censu nulla est
nec ser[vari] debet quia usuraria

77 Census dominus agendo propter com-
missum de [illegible] agere potest propter
capitale quam pro decursis

78 Commiss. clausula non servatur nisi
ad solutionem debiti cum [illegible]
[illegible]

79 Intelligitur ad [illegible] [illegible] clausula
de [illegible]

80 Clausula

55 P [illegible]
56 I [illegible]
57 S [illegible]
58 S [illegible]
59 V [illegible]
60 C [illegible]
[illegible]
I [illegible]
P [illegible]
S [illegible]
P [illegible]
[illegible] possessor
56 P [illegible]
57 H [illegible]
58 I [illegible]
59 I [illegible]
60 V [illegible]
61 E [illegible]
62 E [illegible]
63 C [illegible]
64 C [illegible]
65 R [illegible]
66 R [illegible]
67 C lausula [illegible]
68 I [illegible]
69 I nteresse [illegible]
70 R [illegible]
71 R [illegible]
72 D [illegible]
73 E [illegible]
74 I nteresse [illegible]
75 C ensus [illegible]

... C [illegible]
... C [illegible]
... C [illegible]
... I [illegible]
... C [illegible]
... C [illegible]
84 I [illegible]
85 F [illegible]
86 C ensus [illegible]
87 H [illegible]
88 H [illegible]
89 P [illegible]
90 C ensus [illegible]
91 D uo [illegible] creditor agere [illegible]
92 C reditor census [illegible] procedere
93 C reditor [illegible]
94 C reditor [illegible] potest reddere
95 C ensus [illegible]
96 C ensus [illegible] partes [illegible]
97 R edemptio census [illegible] venditoris
98 R edimi census ad voluntatem [illegible]
99 C ensus [illegible] clausula [illegible]
100 C ensus [illegible]
101 C ensus [illegible]
102 C ensus [illegible]
103 C ensus [illegible] contrahere
104 C ensus [illegible] contrahere [illegible]
105 C ensus [illegible] in contrahente
106 F [illegible]
107 C ensus [illegible]
108 R edemptio census [illegible] vel posse [illegible]
109 T [illegible]

17

110 [illegible]
111 [illegible]
112 [illegible]
113 R [illegible]
114 [illegible]
115 [illegible]
116 R [illegible]
117 R [illegible]
118 R [illegible]
119 R [illegible]
1[illegible] C [illegible] vendat [illegible]
1[illegible] [illegible] fiat in eodem genere [illegible]
[illegible] S [illegible] argento [illegible]
[illegible] R [illegible] qua [illegible] monete non
[illegible] quantitate—
1[illegible] C [illegible] monetae fundatus
[illegible] moneta redimatur
1[illegible] [illegible] census [illegible]
[illegible] quae [illegible] requisita fiat.
Depositum quando [illegible] per parte
[illegible]
1[illegible] Redemptio [illegible] quae [illegible] facienda est
128 Redemptio facta [illegible] amplo
re census quando sit valida
129 Compensatione [illegible] redemptio
[illegible]
130 Redemptio in mora [illegible] quando fieri possit
131 Redemptio census an fieri possit [illegible]
[illegible]
132 Redemptio quando fiat in concursu creditorum
per sententiam
133 Redemptio census quando est fundatus in
[illegible] moneta [illegible] moneta [illegible]
[illegible] fieri possit
134 Redemptionem [illegible] compellatur ad
[illegible] faciendam—
135 Redemptio oblata statim [illegible]
[illegible]
13[illegible] Requisita ad census validitatem [illegible]
[illegible] testamentario [illegible]
[illegible]
137 Census [illegible] fieri possit [illegible]
138 Redemptio census [illegible]
1[illegible] S[illegible] an sit necessaria ad census vali
ditatem
140 Solutio census [illegible] obligationem [illegible]
[illegible]
141 S[illegible] annullant
census
14[illegible] Conditiones quae [illegible] annullant census [illegible]
[illegible] declaratur
1[illegible] F[illegible]—

6. 7

1 [illegible] quando
2 [illegible] per [illegible]
[illegible] ad [illegible]
[illegible] verdaderos
3 Precio [illegible] vero fiat
4 [illegible] quod [illegible]
[illegible]—
5 Apelacion [illegible]
[illegible]
6 Sa [illegible] per [illegible]
[illegible]
7 Hospicium [illegible] ordinarium
[illegible] ordinarium
8 A[illegible] ad [illegible]
[illegible] ad [illegible]
9 H[illegible]
10 E[illegible]
11 T[illegible]
[illegible]
9 Hospit[illegible] alimentorum [illegible]
[illegible]
10 Taxatur [illegible]
[illegible]
11 E[illegible]
et ad [illegible]—
12 H[illegible]
13 A[illegible] et [illegible]
[illegible]
14 Taxa [illegible]
15 Taxa [illegible] quae [illegible]
16 E[illegible] quomodo [illegible]
17 Taxa [illegible]
et ad [illegible]
18 Clerici [illegible]
[illegible]
19 C[illegible]
[illegible]
20 Taxa [illegible] est [illegible]
21 E[illegible]
[illegible]
22 Venditor [illegible]
[illegible] venditor [illegible]
[illegible]
23 E[illegible]
[illegible]

[illegible]

33 C[illegible]

34 P[illegible]

35 T[illegible]

36 T[illegible]

37 A[illegible]

38 Fran[illegible]

Cap. 18 De Homicidio

1 Utrum reipublicae [illegible] delicta puniantur
2 Delicta [illegible] est puniendo
3 Delicta [illegible] plura damna in republica sequuntur
4 Delicta [illegible] debent committi [illegible]
5 Delictum [illegible] per dolo commissum praesumitur
6 [illegible] in [illegible]
7 [illegible] delictum [illegible] poena arbitraria [illegible]
8 Homicidium [illegible] est prohibitum
9 Homicidium [illegible]
10 Homicidium quibus [illegible]
11 Homicidium quid sit
12 Homicidium in [illegible] animati propagatur
13 Homicidium [illegible] conferat [illegible]
Conjugi [illegible]
14 Consensus quando [illegible]
15 F[illegible] dans ad [illegible] generationem vel conceptionem [illegible] homicidium [illegible]
16 [illegible] occidens quando committat [illegible]
17 [illegible]
18 [illegible] homicidium
19 [illegible] peccat
20 Animo [illegible] in foro exteriori [illegible] est punibilis [illegible] in interiori [illegible] delictum peccatum [illegible]
21 Mortuum [illegible] homicidium
22 Mortuus [illegible] prosequi potest
23 Homicidium [illegible] in foro [illegible] per [illegible]
24 Homicidium quinque modis committitur
25 Homicidium [illegible] quot modis fit
26 Homicidium [illegible] quando fit
27 Proditorie homicidium quomodo committatur
28 Assassinum homicidium quale sit
29 Praeceptum de homicidio obediens committit homicidium
30 Mandatum [illegible] quando [illegible]
31 Mandans committit delictum quod mandavit
Mandatarius non [illegible]
Alius principalis [illegible]
32 Mandans quando [illegible]
33 Mandans in foro exteriori [illegible] in interiori [illegible] peccat [illegible]
34 Mandans [illegible] delictum in foro exteriori non punitur in foro interiori peccat per mandatum
35 Ratificans delictum jam commissum in exteriori non punitur in interiori [illegible]
36 Ratificatio quando mandato comparatur
37 Agentes et consentientes quomodo puniantur
38 Intelligitur ad [illegible]
39 Facientes [illegible]

40 Consilio homicidium quando committatur
41 Per mefore quando homicidium committitur
42 Auxilio homicidium committitur
43 Homicidium quando fieri [illegible]
44 Homicidium voluntarium quale sit
45 Homicidium voluntarium [illegible]
46 Homicidium mixtum quale sit
47 Homicidium in actu [illegible] occidendi quoties [illegible]
48 Homicidium casuale quale sit
49 Homicidium casuale quando [illegible] condemnetur
50 Homicida [illegible]
51 Pena [illegible]
52 Confiscatione [illegible]
53 Condemnatus ad [illegible]
54 Condemnatus [illegible] heres [illegible]
55 Clericus homicida quae poena puniatur
56 Clericus homicida [illegible] de gradu deponendus est et [illegible]
57 [illegible] necessaria ad degradationem [illegible]
58 Homicida [illegible]
59 Homicida [illegible] habere hereditatem occisi [illegible]
60 Consanguinei occisoris in eodem gradu excluduntur per [illegible]
61 [illegible] occisi per [illegible] non succedit in hereditate
62 Vir occidens uxorem adulteram [illegible] in dote
63 Intelectus ad l. [illegible] 10 [illegible] 20 [illegible] mortem [illegible]
64 Maritus occidens uxorem judicis authoritate succedit in dote vel [illegible]
65 Intelectus ad l. [illegible]
66 Maritus occidens uxorem adulteram propria authoritate non lucratur dotem
67 Maritus adulterae [illegible] succedere hereditate
68 Occidens non [illegible] habere a successore [illegible] occisi
69 Majoratus possessorem occidens non succedit in majoratu sed sequens in gradu admittitur
70 Palabras de [illegible] intelligitur
71 Occisoris filii [illegible] non succedunt occiso
72 Damno tenetur satisfacere occisor committens homicidium
73 Damna solum parentibus filiis [illegible] debent satisfieri
74 Homicidium est peccatum mortale
75 Homicidium mixtum quale peccatum sit
76 Homicidium mixtum quale peccatum sit
77 Homicidium casuale nec delictum nec peccatum est

78 Homicidium [illegible]
79 [illegible] clericus et laicus [illegible]
80 D[illegible]
81 Clericus homicida [illegible]
82 Clericus homicida [illegible]
83 B[illegible]

Cap. 19 Contra [illegible] quod possit per ter [illegible] ecclesiasticam formandi litteras

1 Libellus contra [illegible]
2 Dat [illegible]
3 Excommunicationes [illegible]
4 [illegible] plago
5 Remedio contra [illegible]
6 Excommunicationis [illegible]
7 [illegible] communicare non possunt
8 Jurisdictio omnis [illegible] a Deo provenit
9 Forus [illegible] ratione delicti
10 Forus in [illegible] ratione delicti [illegible]
11 Forus in foro [illegible] ratione delicti in foro conscientiae non [illegible] propter peccatum vel delictum
12 Judicium [illegible]
13 [illegible] a Deo [illegible] vel voluntarie vel per [illegible] expresse vel tacite
14 Officium judicis [illegible] quando cessat
15 Diligentia [illegible]
16 [illegible] est procedendum contra [illegible]
17 [illegible] debet esse mediante fide et Dei voluntate
18 [illegible] posse qui [illegible]
19 Judicis authoritas [illegible]
20 [illegible] non judicum in [illegible]

[illegible]

31 I [illegible]

32 Negatio [illegible] cum [illegible]

33 Negabba [illegible] falso [illegible] falso videretur [illegible] castum [illegible]

34 Opinioni [illegible] contra veritatem non est standum

Theologi [illegible] opiniones de [illegible] de [illegible] ad [illegible] [illegible]

35 [illegible] communicare [illegible] [illegible] quod [illegible] ecclesiastico

36 [illegible] Dei [illegible] ad [illegible] communicationes [illegible]

37 Excommunicatio [illegible]

38 [illegible] et [illegible] est [illegible] ad quem [illegible] contra [illegible]

39 E[illegible] probat [illegible] contra [illegible]

40 Petere [illegible] quando [illegible] contra [illegible]

41 A[illegible] per ordinario [illegible]

42 Testes [illegible] quod videri in veritate

43 A[illegible] non probabiliter [illegible]

44 Aliquis ordinum non [illegible] proprie [illegible]

45 Dei voluntas aliquando est [illegible] aliquando [illegible] absoluta

[illegible]

46 I [illegible]

47 I [illegible]

48 T [illegible] in [illegible]

49 A [illegible]

50 L [illegible]

51 L [illegible] in [illegible]

52 A [illegible]

Cap. 20. de [illegible]

[illegible]

31 Poenitentia de delicto [illegible] veritate [illegible]

32 [illegible]

33 [illegible] quando [illegible]

34 [illegible]

35 [illegible]

36 [illegible]

37 Conveniendo ad [illegible]

38 Heretici [illegible]

39 Poenitentia de delicto non [illegible] ad [illegible]

40 Poenitentia de delicto [illegible] habet [illegible]

41 Poenitentia [illegible] vel delicti [illegible]

42 Vere [illegible]

43 [illegible] ad [illegible] in [illegible] non debent [illegible]

44 [illegible] ad [illegible] probabile

45 Vere [illegible] probabilia

46 A[illegible] probabilis [illegible]

47 Vere [illegible] est probabilis [illegible]

48 [illegible] est probabile

49 Vere probabile [illegible]

50 Vere [illegible]

51 Vere [illegible]

52 Vere [illegible]

53 Vere [illegible] et [illegible]

54 [illegible] contra [illegible]

55 Vere [illegible]

56 [illegible]

57 [illegible]

[illegible]

89 N Nullatenus [illegible] in contrarium

90 A Absolutio virtute pribilegij publice [illegible] habeat vim in foro exteriore

91 A Absolutus sub spe pribilegij [illegible]

92 A Auxilium [illegible] qui [illegible] pribilegio [illegible]

93 P Pribilegij [illegible] in foro exteriore [illegible] absolutionem a delicto [illegible] peccato in foro vero conscientiae [illegible] absolutionem a peccatis

95 L [illegible] heredes [illegible]

96 F Frater vel [illegible] habere [illegible]

97 I [illegible] fratris vel sororis [illegible] testamento

98 F Frater contra testamentum fratris [illegible]

99 F Frater [illegible] heredes [illegible] fratre [illegible]

100 F Frater in foro exteriori [illegible] veri ordinis [illegible] in foro interiori [illegible]

101 F Filius [illegible] in foro interiori [illegible]

102 P Professores [illegible] prebendatus

103 P Professores [illegible]

104 V [illegible]

105 M [illegible]

[illegible]

56 Ratio [illegible] probaciones per juramentum executoris esse adimpletam [illegible] probari

57 Ratio pro exonerando conscientia executoris [illegible] esse adimpletum per juramentum probatis

58 Executor pro exoneranda conscientia potest solvere debita prescripta que naturaliter debentur

59 Executor quod [illegible] [illegible] [illegible]

60 Racione [illegible] quod [illegible] debere petere et reddi

61 Executor [illegible] alterare vel mutare testatoris voluntatem [illegible]

62 Voluntas defunctorum mutari non potest nisi [illegible] et voluntate [illegible] heres

63 Legatus [illegible] non potest mutare [illegible] voluntates

64 Comutacio facta per [illegible] causa [illegible]

65 Pater [illegible] comutando vel dispensando [illegible] causa [illegible] valet [illegible]

66 Testatoris [illegible] voluntas [illegible] antequam fiat comutacio

67 Episcopus [illegible] [illegible] non [illegible]

68 Legatum pro [illegible] in [illegible] religionem

69 Illud [illegible] [illegible] sacramentis commu[illegible]

70 [illegible] non solemnes

71 Illud [illegible] causa [illegible]

72 [illegible]

73 [illegible]

74 [illegible]

75 [illegible]

76 [illegible]

77 [illegible]

79 In [illegible]

80 Annus quem [illegible] quem dam [illegible]

81 Annus [illegible]

82 Annus [illegible] executoris [illegible]

83 Annus [illegible]

84 Heres non [illegible] per executorem vel [illegible] ut [illegible] non [illegible]

85 Executor quod [illegible]

86 Executor in [illegible]

87 Per [illegible] executor [illegible]

88 Per [illegible] non [illegible] non debet solvi in [illegible]

89 Executor [illegible] implere voluntatem testatoris [illegible]

90 Executor [illegible] pauperes [illegible] testatoris

91 Executor [illegible] pauperibus [illegible]

92 Executor [illegible] comutare [illegible]

93 In [illegible] testatoris [illegible] non debet dari

94 Executor [illegible] non [illegible] pauperes [illegible]

95 Pauper [illegible]

96 [illegible] executori [illegible] pro [illegible] voluntatem [illegible]

97 Verba [illegible] executoris [illegible]

98 I ...

99 I ...

100 I ...

101 L ... potest ...

102 I ...

103 II ...

104 II ...

104 L ...

... suplendis ... fore

109 I ... fuerat non potest

... heredi

106 S ... potest ... verdat etiam

... premium confitetur

107 I ... vendere non potest ... soluto precio

109 I ... vendale promettens ... vendere possit

110 L ... agere contra debitores vel ... contra ... executores ...

111 L ... quando ... contra executorem ...

112 S ... precio ... vendere ... executorie ...

113 S ... et ... potest ...

114 I ... executor ... potest

115 I ... vel curator ... administra... non potest ... vel administrationis

116 L ... executoris et tutoris ... hereditatis et ... facta valida est

117 I ... executoris prohibita per ... filios ... personam

118 I ... executor rem ... potest soluto precio rem ... non venit ...

119 I ... et ... per ... in ... facta per executorem ... rem ... et ... prohibetur

119 I ... executoris tutoris vel administrationis ... in fraude ... valet et tenet

...

1 II ...

... 10 ...

11 II ...

12 I ...

13 P ...

14 II ...

15 A ...

16 A ...

17 I ...

18 C ...

19 C ...

20 S ...

21 S ...

22 S ...

23 S ...

24 S ...

25 H ...

26 H ...

27 C ...

28 II ...

[illegible]

Cap. 17 de his quae vi metus vel causa fiunt

1 Vis quid sit
2 Vis duplex est
3 Illegitur [illegible] proba[illegible] [illegible]
contractus ad metum [illegible]
4 [illegible] habere aliquid voluntas
5 Intelligitur ad l. [illegible] de his quae vi
6 Intelligitur ad l. [illegible] de eo quod metus causa [illegible]
7 Intelligitur ad l. metus [illegible] ff. de regulis juris
8 Intelligitur ad l. [illegible] metus 14 ff. de [illegible]
9 [illegible] requirit praesentiam [illegible] praesentia vero solum intelligere [illegible]
10 Praesentia parochi et testium [illegible] ad contrahendum matrimonium qualis debet esse
11 Praesentia testium in testamento qualis sit
12 [illegible] vero [illegible] valent [illegible] vero [illegible]
13 Intelligitur ad l. si mulier 21 § [illegible] ff. de eo quod metus causa
14 Intelligitur ad l. [illegible] de [illegible] partis [illegible]
15 Intelligitur ad l. qui invalida [illegible] ff. de acquirenda hereditate
16 Metus [illegible] est
17 [illegible] debet intelligi [illegible] et [illegible] procedentem
18 Jurisdictionis prorogatio per vim nulla est [illegible]
19 [illegible] an annullat contractum [illegible]
20 Intelligitur ad l. [illegible] 116 ff. de regul. juris [illegible] 14 de [illegible]
21 Metum [illegible] non [illegible]
22 Metus an [illegible] ignorantiam
23 Votorum professio per vim vel metum [illegible] nulla est
24 [illegible] per metum [illegible]
25 Baptismum [illegible] per metum [illegible] est
26 Professio religionis per metum [illegible] nulla est
27 Matrimonium metu contractum nullum est
28 Metus illatus a [illegible] matrimonium
29 Metus ad contrahendum [illegible] de [illegible] annullat matrimonium
30 Consensus [illegible] et [illegible] quando [illegible] matrimonium valeat dicto no. 126.
31 Procurator ad matrimonium [illegible] nullus
32 Contractus quid sit
33 Contractus matrimonii in quo differat ab aliis contractibus
34 Matrimonium requirit voluntatem et quod sit libera
35 Matrimonium metu contractum [illegible] juramento [illegible] nullum est
36 Matrimonium metu contractum [illegible] metum [illegible]
37 Matrimonium contrahens [illegible] consummatum matrimonium et confirmat [illegible] virginem [illegible]
38 Matrimonium contrahens [illegible] contrahendo
39 Matrimonium primum [illegible] contractum [illegible] secundum et non primum
40 Matrimonium [illegible]

matrimonium cum copula subsecuta secundum contrahentes valet secundum matrimonium —

41 Matrimonium nullum fuit secundum celebratum cum omnibus solemnitatibus requisitis ad contrahendum

42 Matrimonium nullum [illegible] et [illegible] legitimum judicatur.

43 Matrimonii nullitas redacta ad forum [illegible] ut [illegible] requirit solemnitates [illegible] nulli [illegible] —

44 Matrimonium [illegible] in foro exteriori non annullat matrimonium in conscientia nullum est

45 In dubio sententia [illegible] pro matrimonio [illegible] est.

46 Absolutio necessaria est a juramento per [illegible] —

47 Relaxatio non [illegible] per [illegible] hoc juramento debet relaxari [illegible] —

48 Juramentum secundum contra [illegible] nullum est

49 Juramentum in [illegible] invalido nullum est [illegible] —

50 Juramentum in contractu nullo [illegible] in foro exteriori nullitate et [illegible] necessaria est declaratio.

51 Relaxatio juramenti in foro exteriori [illegible] contractus validitatem debet fieri cum [illegible] in foro conscientiae non est necessaria —

52 [illegible] relaxatione juramenti ad effectum agendi vel excipiendi non est necessaria

53 Relaxatio juramenti per quem fieri debet [illegible]

54 Relaxatio juramenti [illegible] per judicem [illegible] contractus —

55 Relaxatio juramenti in foro [illegible] per confessarium fieri potest

56 Relaxatio per quem judicem [illegible] [illegible] vel [illegible] —

57 Relaxatio juramento [illegible] in suo foro [illegible] judicem [illegible] causa [illegible] debet

58 Relaxatio juramenti [illegible] contractus valet vel non valet secundum [illegible]

59 Distractus sive contractus [illegible] quod metus causa [illegible]

60 Contractus et distractus sunt ejusdem naturae

61 Metus [illegible] mentem

62 Metus [illegible] quae [illegible]

63 Metus [illegible] causa [illegible]

64 Metus [illegible] cadens in constantem virum qualis sit

65 Vir constans [illegible] qualis sit

66 Metus [illegible] ad [illegible] judicis [illegible]

67 Intellectus ad l. 7 tit. 33 parte 7ª

68 Metus secundum [illegible] et statum [illegible]

69 Metus minor in foro [illegible] ad annullandum matrimonium [illegible] in [illegible] —

70 Metus minor in [illegible]

71 Metus [illegible] metus [illegible] ad [illegible]

72 Metus [illegible] ad annullandum [illegible]

73 Metus [illegible] probatur [illegible] praesumptis et [illegible]

74 Metus [illegible] non [illegible] quod metus causa

75 Dolus [illegible] quod metus causa

76 Metus actio datur in principalem et [illegible] heredem et [illegible]

77 Metus causa actio datur contra quemcumque [illegible] possessorem [illegible]

78 Metus actio contra heredes et [illegible] [illegible] totus [illegible] [illegible]

79 Metus actio competit [illegible] [illegible]

80 Pater [illegible] habere [illegible]

81 Metus [illegible] est

82 Pater et filius [illegible]

83 Pater [illegible] filii

84 Mater [illegible] habere [illegible]

85 Metus [illegible] ascendentes [illegible] descendentes et consanguineos [illegible]

86 Metus [illegible] —

87 Metus [illegible]

88 Metus actio competit heredibus et [illegible]

89 Restitutio [illegible] quod metus causa

90 [illegible] quod [illegible] in [illegible]

91 [illegible] contractum [illegible] non habet actionem

92 Pro [illegible] vel [illegible] [illegible] est [illegible]

93 Metum [illegible] non [illegible] contractum [illegible]

94 [illegible]

94 Fide jussor non obligatur in [illegible] metu facto.
95 Metus [illegible] [illegible] [illegible]
96 Arrestum metus [illegible] est
97 Libertatis amissionis metus [illegible]
98 Captivitatis metus dat [illegible] causa
99 [illegible] [illegible] [illegible] metum
100 Carcer est [illegible] metus
101 [illegible] [illegible] [illegible] metum
102 [illegible] [illegible] causa [illegible] metum
103 [illegible] [illegible] metum [illegible] [illegible]
104 In famia [illegible] [illegible] [illegible] metum
105 Excommunicatio [illegible] [illegible] infert metum
106 Venerium [illegible] [illegible] metus est
107 [illegible] [illegible] [illegible] metus
108 Imperativa verba inferunt metum
109 Personarum [illegible] preces [illegible] inducant metum
110 In grave [illegible] [illegible] causa metus
111 Reverentialis metus [illegible] [illegible] [illegible] declaratur
112 Intelectus ad l. velle 4 [illegible]
113 Intelectus ad l. qui in aliena [illegible] [illegible]
114 Intelectus ad l. 1. 8 que honerande [illegible]
115 Intelectus ad l. penult. [illegible]
116 Patientia cum [illegible] non contradixit [illegible] fit metus [illegible]
117 Patientia cum [illegible] obligatur solo metu.
118 Personae que inducunt metum debe[illegible] [illegible] [illegible]
119 Arbitrium ad metum [illegible] judicandum debet fieri respectu patientis et agentis.
120 [illegible] [illegible] cum metu [illegible] [illegible] est.
121 Minae ad metum [illegible] interest an fiant [illegible] vel ante [illegible] inter [illegible]
122 Minae non [illegible] fieri in presentia sed [illegible] quod [illegible] [illegible] vel [illegible] metum [illegible].
123 Professus in [illegible] non potest [illegible] contra [illegible] [illegible] me [illegible]
124 Confessio [illegible] vel [illegible] [illegible] an [illegible] purgare metum
125 Intelectus ad l. transactionem 35 C. de transactionibus
126 P[illegible] est [illegible] [illegible] [illegible] non solet [illegible] sed [illegible] causa metus.
127 Tempus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
128 A[illegible] [illegible] [illegible] voluntatem debere [illegible] [illegible] non purgat metum
129 Intelectus ad l. 2 a C. de his que vi
Solutio in obligatione [illegible] non purgat metum
130 Causa metus [illegible] [illegible] metus [illegible] [illegible]
131 Metus [illegible] [illegible] in [illegible] [illegible]
132 [illegible] [illegible] [illegible] causa metus non purgant.
133 [illegible] [illegible] [illegible] [illegible]
134 [illegible] [illegible] metus causa probandus
135 Metus [illegible] [illegible] probatur
136 Metus [illegible] [illegible] [illegible]
137 Metus [illegible] [illegible] probatur
138 Intelectus ad l. 1 de his que vi
139 Metu probato [illegible] contractum voluntas [illegible]
140 [illegible] [illegible] [illegible] metus probatur
141 Metus presumitur [illegible] [illegible] causa
142 Metus [illegible] [illegible] voluntatis
143 [illegible] metus [illegible] ante [illegible] presumitur metus
144 [illegible] [illegible] [illegible] presumitur metum
145 [illegible] post [illegible] metum [illegible]
146 [illegible] [illegible] aut [illegible] presumitur metum
147 [illegible] [illegible] contrahit [illegible] per metum
148 [illegible] infert metum
149 Voluntatem [illegible] non habens presumitur habere metum
150 [illegible] [illegible] metus presumitur
151 [illegible] [illegible] presumitur metum habere
152 Protestatio probat ad metus probationem
153 Probatio metus [illegible] [illegible] [illegible]
154 Professio de [illegible] per metum [illegible] [illegible] contra [illegible]
155 [illegible] metus contra [illegible] [illegible]
156 [illegible] [illegible] [illegible] [illegible]
157 [illegible] per metum [illegible] [illegible]
158 [illegible] metum [illegible] [illegible] [illegible]

159 R[illegible]

160 S[illegible]

Cap. 16.

[illegible]

Cap. 16. de Censibus [illegible]

1 Census [illegible]

2 Census [illegible]

3 [illegible]

4 Census [illegible]

5 Census [illegible]

6 Census [illegible]

7 Census [illegible]

8 P[illegible]

9 H[illegible] n. 86.

10 P[illegible]

11 Ob[illegible]

12 Obligatio census [illegible]

13 Ob[illegible]

14 H[illegible]

15 P[illegible]

16 H[illegible]

17 Census [illegible]

[illegible]

30 Intelligitur [illegible]

31 Solucio pensionis [illegible]

32 Census ad solvendas pensiones [illegible]

33 Census [illegible]

34 H[illegible]

35 Numeratio [illegible]

36 N[illegible]

37 Numeratio [illegible]

38 Census [illegible] Valet

39 Intellectus [illegible]

40 Census [illegible]

41 Census [illegible]

42 E[illegible]

43 Census [illegible]

44 C[illegible]

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